Journal of the Senate

Number 6—Special Session C **Tuesday, November 9, 1993**

CALL TO ORDER

The Senate was called to order by the President at 2:20 p.m. A quorum present—33:

Mr. President	Dyer	Jenne	Silver
Bankhead	Foley	Johnson	Sullivan
Beard	Forman	Kirkpatrick	Turner
Boczar	Grant	Kiser	Weinstein
Brown-Waite	Grogan	Kurth	Wexler
Burt	Gutman	McKay	Williams
Crenshaw	Harden	Meadows	
Crist	Hargrett	Myers	
Diaz-Balart	Holzendorf	Siegel	

Excused: Senators Casas, Dudley and Jones; periodically, Senators Bankhead, Beard, Childers, Dantzler, Grant, Holzendorf, Jenne, Jennings, Kirkpatrick, Kiser, Kurth, McKay, Meadows, Myers, Scott, Siegel, Silver and Wexler; conferees on CS for SB 12-C; CS for HB's 33-C and 43-C; CS for HB 31-C and CS for CS for HB 91-C.

PRAYER

The following prayer was offered by Rev. David T. Solomon, Pastor, Immanuel Baptist Church, Tallahassee:

Thou security for us involves your judgement of us. Therefore, our security for us involves our judgment of us.

Thou security for us involves your care of us. Therefore, our security for us involves our care of us.

Thou security for us involves your cure for us. Therefore, our security for us involves our cure of us.

PLEDGE

Senator Crist led the Senate in the pledge of allegiance to the flag of the United States of America.

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 2:44 p.m. to reconvene upon call of the President.

EVENING SESSION

The Senate was called to order by the President at 5:09 p.m. A quorum present—37:

Mr. President	Diaz-Balart	Jenne	Siegel
Bankhead	Dyer	Jennings	Silver
Beard	Foley	Johnson	Sullivan
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kiser	Weinstein
Burt	Grogan	Kurth	Wexler
Childers	Gutman	McKay	Williams
Crenshaw	Harden	Meadows	
Crist	Hargrett	Myers	
Dantzler	Holzendorf	Scott	

SPECIAL ORDER

On motions by Senator Kirkpatrick, by two-thirds vote **HB 73-C** was withdrawn from the Committee on Commerce and by two-thirds vote placed on the Special Order Calendar.

HB 73-C—A bill to be entitled An act relating to public records; exempting certain reports of insured values under certain insurance policies submitted to the State Board of Administration from public records requirements; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **HB 73-C** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SENATOR JENNE PRESIDING

On motions by Senator Kirkpatrick, by two-thirds vote **HB 131-C** was withdrawn from the Committee on Commerce and by two-thirds vote placed on the Special Order Calendar.

On motion by Senator Holzendorf, by two-thirds vote—

HB 131-C—A bill to be entitled An act relating to restrictions on cancellation or nonrenewal of property insurance policies; amending s. 627 7013, F.S.; revising provisions relating to exemptions from the phase-out of the moratorium on cancellation or nonrenewal of certain property insurance policies; providing an effective date.

—was read the second time by title.

Senators Diaz-Balart and Crist offered the following amendment which was moved by Senator Diaz-Balart and failed:

Amendment 1—On page 2, lines 1, 2 and 3 type and strike the number "10" and insert: *5*

On motion by Senator Holzendorf, by two-thirds vote **HB 131-C** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motions by Senator Kirkpatrick, by two-thirds vote **SB 54-C** was withdrawn from the Committee on Commerce and by two-thirds vote placed on the Special Order Calendar.

On motions by Senator Grant, by two-thirds vote—

SB 54-C—A bill to be entitled An act relating to reporting of insurance premium growth rates; amending s. 624.4243, F.S.; specifying circumstances for filing of statements of premium growth rates with the Department of Insurance; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

THE PRESIDENT PRESIDING

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 5:59 p.m. to reconvene at 7:15 p.m.

CALL TO ORDER

The Senate was called to order by the President at 7:30 p.m. A quorum present—36:

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dyer	Jenne	Scott
Boczar	Foley	Jennings	Siegel
Brown-Waite	Forman	Johnson	Silver
Burt	Grant	Kirkpatrick	Sullivan
Childers	Grogan	Kiser	Turner
Crenshaw	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Williams

By direction of the President, the Secretary read the following proclamation:

PROCLAMATION
State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE FLORIDA HOUSE OF REPRESENTATIVES:

WHEREAS, the Thirteenth Legislature of the State of Florida, under the Florida Constitution, 1968 Revision, convened in regular session on Tuesday, February 2, 1993, and adjourned sine die on Sunday, April 4, 1993, and

WHEREAS, by proclamation dated October 11, 1993, amended November 1, 1993, November 3, 1993, and November 5, 1993, the Governor called the Florida Legislature into special session to consider the issues of workers' compensation, juvenile crime, property insurance and reinsurance, and tax credits for defense industries converting their defense production into civilian applications, and

WHEREAS, it is appropriate to amend that proclamation to include additional matters which should be considered by the legislature before the regular session in 1994.

NOW, THEREFORE, I, LAWTON CHILES, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 2 of the Proclamation of the Governor dated October 11, 1993, as amended November 1, 1993, November 3, and November 5, 1993, is hereby further amended to add the following paragraphs (g), (h), and (i):

Section 2.

The Legislature of Florida is convened for the sole and exclusive purpose of considering the following:

(g) Legislation allowing for the issuance of Florida license plates for motor vehicles to provide confidentiality under certain circumstances.

(h) Legislation relating to the regulation of professions substantially similar to Senate Bill 42-C (1993).

(i) Legislation relating to the creation of the State University System Teaching and Departmental Incentive Program and providing procedures for implementation of that program.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 9th day of November, 1993.

Lawton Chiles
GOVERNOR

ATTEST:
Jim Smith
SECRETARY OF STATE

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

SB 52-C—Introduction deferred.

By Senator Grant—

SB 54-C—A bill to be entitled An act relating to reporting of insurance premium growth rates; amending s. 624.4243, F.S.; specifying circumstances for filing of statements of premium growth rates with the Department of Insurance; providing an effective date.

—was referred to the Committee on Commerce.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed HB 131-C and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Cosgrove and others—

HB 131-C—A bill to be entitled An act relating to restrictions on cancellation or nonrenewal of property insurance policies; amending s. 627.7013, F.S.; revising provisions relating to exemptions from the phase-out of the moratorium on cancellation or nonrenewal of certain property insurance policies; providing an effective date.

—was referred to the Committee on Commerce.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 30-C and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 30-C—A bill to be entitled An act relating to administration of the Defense Reinvestment Incentive Program; providing a public records exemption for certain information received by the Department of Commerce pursuant thereto; providing for future review and repeal in accordance with s. 119.14, F.S.; providing legislative findings; providing an effective date.

House Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 288.106, Florida Statutes, is created to read:

288.106 Confidentiality of records.—Certain proprietary information required to be included on applications pursuant to s. 288.104(3)(b)1., 8., 9., and 11. or s. 288.104(3)(c)1., 8., 9., and 11. and tax data required pursuant s. 288.104(5)(b) received by the Department of Commerce under its administration of the qualified defense contractor tax refund program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a) of Article I of the State Constitution for a period of 10 years. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. The Legislature finds that exempting from the public records law certain proprietary information and tax data contained in an application for a tax refund submitted by a defense contractor pursuant to s. 288.104, Florida Statutes, from public records requirements is a public necessity in that the harm to such a defense contractor would outweigh any public benefit derived from release of such information. Public access to such information could potentially reveal legitimate private business information, placing the defense contractor at a competitive disadvantage to other defense contractors outside the state. Should this information be subject to public disclosure, a defense contractor currently doing business in this state might be reluctant to apply to the program and thus not be able to take advantage of the tax refunds available.

Section 3. This act shall take effect on the same date as Senate Bill 32-C or similar legislation creating s. 288.104, Florida Statutes, takes effect, if such legislation is adopted in the same legislative session or an extension thereof. This act shall be repealed on April 15, 1994, if no qualified defense contractor, as defined in s. 288.104(1), has entered into a valid new Department of Defense contract or commenced the consolidation of a Department of Defense contract, which will result in the employment of at least 1,000 full-time employees. A qualified defense contractor which enters such a contract shall notify the Secretary of the Department of Commerce in writing no later than April 14, 1994.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to public records; creating s. 288.106, F.S.; providing an exemption from public records requirements for certain information filed with the Department of Commerce by defense contractors; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

MOTION

On motion by Senator Grogan, the Senate concurred in the House amendment.

SB 30-C passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—27 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

CONFERENCE COMMITTEE REPORT ON CS FOR HB 31-C

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for HB 31-C as amended by the Conference Committee Report.

John B. Phelps, Clerk

The Honorable Pat Thomas
President of the Senate

The Honorable Bolley L. Johnson
Speaker, House of Representatives

Sirs:

The Conference Committee on the disagreeing votes of the two Houses on Committee Substitute for House Bill 31-C, being:

> A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund;

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the Senate recede from its Amendment 1.
2. That the House and Senate adopt the Conference Committee Amendment, attached thereto, and by reference made a part of this report.
3. That the House and the Senate pass Committee Substitute for House Bill 31-C as amended by the Conference Committee Amendment.

s/Betty S. Holzendorf	*s/John F. Cosgrove*
Vice Chairman	*Chairman*
s/John Grant	*s/Stan Bainter*
s/Ken Jenne	*s/Steven A. Geller*
s/John McKay	*s/Debbie Wasserman-Schultz*
Managers on the part of the Senate	Managers on the part of the House of Representatives

Summary of Conference Committee Action:

Section 1 creates s. 215.555, F.S., creating the Florida Hurricane Catastrophe Fund. The section contains findings establishing that the unavailability of reliable private sector property insurance coverage endangers the state's economy and the public health, safety, and welfare, and that the creation of the Florida Hurricane Catastrophe Fund is a valid and necessary public and governmental purpose.

The section creates the Florida Hurricane Catastrophe Fund to be administered by the State Board of Administration. Moneys in the fund may be used only to pay obligations of the fund under reimbursement contracts, payment of debts including retirement of revenue bonds issued for the benefit of the fund, costs of mitigation programs authorized by the act, costs of procuring reinsurance, and costs of administration.

The board is required to enter into a reimbursement contract with each insurer writing policies covering commercial or residential structure. The contract will promise to reimburse the insurer for 75 percent of its losses from all hurricanes in any calendar year in excess of 2 times the insurer's gross direct written premium for covered policies for the prior year, except that for insurers with surplus as to policyholders of $15 million or less, the level of reimbursement is 75 percent of losses in excess of 1.5 times gross direct written premium for the prior year. However, the board's obligation under reimbursement contracts is limited to the moneys in the fund plus amounts the board can raise through revenue bonds that pledge future fund premiums.

Each covered insurer will pay to the fund an actuarially determined premium for the reimbursement provided by the fund, including an advance payment of $1,000 to provide start-up funding. The formula for calculation of these premiums must be approved by unanimous vote of the State Board of Administration.

If the moneys in the fund are not sufficient to pay fund obligations, the board is required to contract with a county or municipality for the issuance of revenue bonds for the benefit of the fund pledging future reimbursement premium revenues. The bonds must be validated, and the maximum term of the bonds is 15 years. Bonding is also allowed in the absence of a hurricane if the board determines that bonding would maximize the ability to meet future obligations.

If the future reimbursement premium revenues are not sufficient to fund bonds to meet reimbursement obligations, the board must direct the Department of Insurance to levy an emergency annual assessment on all property and casualty insurers (except workers' compensation) equal to 2 percent of the insurer's gross direct written premium for the prior year; these emergency assessments would also be pledged to retire the bonds, and would continue until the bonds are retired.

In addition to these powers and duties, the board is authorized to procure reinsurance and to borrow from market sources at prevailing interest rates. If there were no hurricanes in the prior year, up to 2 percent of the reimbursement premium revenues from the prior year will be available for appropriation for grants, administered by the Department of Community Affairs, for non-recurring expenditures to support projects that directly protect local infrastructure from potential damage from a hurricane.

The board is directed to appoint a 9-member advisory council consisting of 3 consumers, an actuary, a meteorologist, an engineer, and representatives of insurers, insurance agents, and reinsurers.

The bill contains a declaration that the fund is a trust fund established for bond indentures under s. 19(f)(3) of Article III of the State Constitution.

Violations of the act constitute violations of the Insurance Code.

If a federal or multistate catastrophe fund is created, the board is directed to make recommendations to the Legislature for coordination with the federal or multistate program, for termination of the fund, or other appropriate action. The fund may be terminated only by law; upon termination, assets of the fund will revert to the General Revenue Fund.

Section 2 provides that the fund is exempt from the deduction required by s. 215.20(1), F.S.

Section 3 requires the board to seek the opinion of the Internal Revenue Service as to the state's tax-exempt status with respect to the fund, and to specifically seek a determination with respect to the impact of the specific reimbursement levels for insurers with $15 million or less in surplus.

Section 4 specifies that reimbursement premiums and emergency assessments under the act are excluded from calculation of retaliatory taxes.

Section 5 provides that the act takes effect upon becoming a law, except that the act will not take effect unless the Conference Report on CS/HBs 33-C and 43-C becomes law.

Conference Committee Amendment 1 (with Title Amendment)—On page 2, line 13, strike everything after the enacting clause and insert:

Section 1. Section 215.555, Florida Statutes, is created to read:

215.555 Florida Hurricane Catastrophe Fund.—

(1) FINDINGS AND PURPOSE.—The Legislature finds and declares as follows:

(a) There is a compelling state interest in maintaining a viable and orderly private sector market for property insurance in this state. To the extent that the private sector is unable to maintain a viable and orderly market for property insurance in this state, state actions to maintain such a viable and orderly market are valid and necessary exercises of the police power.

(b) As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricane Andrew, numerous insurers have determined that in order to protect their solvency, it is necessary for them to reduce their exposure to hurricane losses. Also as a result of these events, world reinsurance capacity has significantly contracted, increasing the pressure on insurers to reduce their catastrophic exposures.

(c) Mortgages require reliable property insurance, and the unavailability of reliable property insurance would therefore make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be repaired or reconstructed as soon as possible. Therefore, the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable residents of this state to obtain property insurance coverage in the private sector endangers the economy of the state and endangers the public health, safety, and welfare. Accordingly, state action to correct for this inability of the private sector constitutes a valid and necessary public and governmental purpose.

(d) The insolvencies and financial impairments resulting from Hurricane Andrew demonstrate that many property insurers are unable or unwilling to maintain reserves, surplus, and reinsurance sufficient to enable the insurers to pay all claims in full in the event of a catastrophe. State action is therefore necessary to protect the public from an insurer's unwillingness or inability to maintain sufficient reserves, surplus, and reinsurance.

(e) A state program to provide reimbursement to insurers for a portion of their catastrophic hurricane losses will create additional insurance capacity sufficient to ameliorate the current dangers to the state's economy and to the public health, safety, and welfare.

(f) It is essential to the functioning of a state program to increase insurance capacity that revenues received be exempt from federal taxation. It is therefore the intent of the Legislature that this program be structured as a state trust fund under the direction and control of the State Board of Administration and operate exclusively for the purpose of protecting and advancing the state's interest in maintaining insurance capacity in this state.

(2) DEFINITIONS.—As used in this section:

(a) "Actuarially indicated" means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, including additional amounts if needed to retire revenue bonds issued under subsection (6), and determined according to principles of actuarial science to reflect each insurer's relative exposure to hurricane losses.

(b) "Covered event" means any one or more storms that make landfall in Florida in one calendar year which are declared to be hurricanes by a the National Hurricane Center.

(c) "Covered policy" means any personal lines or commercial property insurance policy covering property in this state, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, or commercial multi-peril policy, or any other policy covering a residential or commercial structure or its contents issued by any authorized insurer, including any joint underwriting association. "Covered policy" does not include any reinsurance agreement.

(d) "Losses" means direct incurred losses and loss adjustment expenses.

(3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.—There is created the Florida Hurricane Catastrophe Fund to be administered by the State Board of Administration. Moneys in the fund may not be expended, loaned, or appropriated except to pay obligations of the fund arising out of reimbursement contracts entered into under subsection (4), payment of debts including obligations arising out of revenue bonds issued under subsection (6), costs of the mitigation program under subsection (7), costs of procuring reinsurance, and costs of administration of the fund. The board shall invest the moneys in the fund pursuant to ss. 215.44-215.52. Earnings from all investments shall be retained in the fund. The board may employ or contract with such staff and professionals as the board deems necessary for the administration of the fund. The board may adopt rules to implement this section.

(4) REIMBURSEMENT CONTRACTS.—

(a) The board shall enter into a contract with each insurer writing covered policies in this state to provide to the insurer the reimbursement described in paragraph (b), in exchange for the reimbursement premium paid into the fund under subsection (5). As a condition of doing business in this state, each such insurer shall enter into such a contract.

(b) The contract shall contain a promise by the board to reimburse the insurer for 75 percent of its losses from covered events in excess of two times the insurer's gross direct written premium from covered policies for the prior year, except that with respect to an insurer having surplus as to policyholders in the amount of $15 million or less as of December 31 of the year preceding the covered event, the contract shall contain a promise to reimburse the insurer for 75 percent of its losses from covered events in excess of 1.5 times the insurer's gross direct written premium from covered policies for the prior year. The contract shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources; however, recoveries from such other sources, taken together with reimbursements under the contract, may not exceed 100 percent of the insurer's losses from covered events.

(c) The contract shall also provide that the obligation of the board with respect to all contracts covering a particular year shall not exceed the moneys in the fund, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6). The contract shall require the board to annually notify insurers of the fund's anticipated borrowing capacity for the next year.

(d) The contract shall require the insurer to report to the board on December 31 of each year, and quarterly thereafter, its losses from covered events for the year. The contract shall require the board to determine and pay, as soon as practicable after receiving these reports, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the board to pay, or the insurer to return, amounts reflecting the most recent calculation of losses. If the board determines that the assets of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6), are insufficient to pay reimbursement to all insurers at the level promised in the contract, the board shall establish the reimbursement level at the highest level for which such assets and borrowing capacity are sufficient.

(e) The contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall loan the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

(f) The board shall adopt the initial contract form by rule no later than February 1, 1994. The board shall adopt the initial premium formula by rule no later than March 1, 1994. Initial reimbursement contracts under this section shall be entered into no earlier than May 1, 1994, and no later than June 1, 1994, and shall take effect on June 1, 1994.

(5) REIMBURSEMENT PREMIUMS.—

(a) Each reimbursement contract shall require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement.

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code. The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(c) No later than April 1 of each year, each insurer shall notify the board of its insured values under covered policies by zip code, as of December 31 of the previous year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract.

(d) All premiums paid to the fund under reimbursement contracts shall be treated as premium for approved reinsurance for all accounting and regulatory purposes.

(e) In order to provide startup moneys for the administration of the fund, each insurer subject to this section shall pay to the fund an advance premium payment of $1,000 no later than January 1, 1994. The Department of Insurance shall collect the advance premium payments required by this paragraph on behalf of the board. The insurer shall receive a credit against future premiums for the advance payment.

(6) REVENUE BONDS.—

(a) Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board shall enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund. The term of the bonds may not exceed 15 years. The board shall pledge all future revenues under subsection (5) and under paragraph (c), or a lesser portion of such revenues sufficient to raise moneys in an amount that will pay reimbursement at the levels promised in the reimbursement contracts, to the retirement of such bonds. The board may also enter into such agreements in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

(b) The governing body of any county or municipality may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purpose of meeting the reimbursement obligations of the fund. The issuance of such bonds is for the public purpose of ensuring that policyholders located within the county or municipality are able to recover under property insurance policies after a covered event. Revenue bonds may not be issued until validated pursuant to the provisions of chapter 75. The county or municipality shall enter into such contracts with the fund as are necessary to carry out this section. Any bonds issued under this section shall be payable from and secured by moneys received by the fund under subsection (5), and assigned and pledged to or on behalf of the county or municipality for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the county or municipality shall not be pledged for the payment of such bonds.

(c) If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund revenue bonds to pay reimbursement at the levels promised in the reimbursement contracts, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state. Pursuant to the emergency assessment, each such insurer shall pay to the fund by July 1 of each year an amount equal to 2 percent of its gross direct written premium for the prior year from all property and casualty business in this state except for workers' compensation. The annual assessments under this paragraph shall continue until the revenue bonds issued with respect to which the assessment was imposed are retired. An insurer shall not at any time be subject to more than one assessment under this paragraph. Within 90 days after the assessment is levied under this paragraph, each insurer subject to the assessment shall make a rate filing for all coverages on which the assessment is based. If the filing reflects a rate change attributable entirely to the assessment, the filing shall consist of a certification so stating and shall be deemed approved when made, subject to the authority of the Department of Insurance to require actuarial justification as to the adequacy of any rate at any time.

(7) ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers approved under s. 624.610 for the purpose of maximizing the capacity of the fund.

(b) In addition to borrowing under subsection (6), the board may also borrow from any market sources at prevailing interest rates.

(c) If no covered events occurred in the prior calendar year, up to two percent of the prior year's premium collected by the fund shall be available for the purpose of making legislative appropriations for grants to local governments, state agencies, and nonprofit charitable organizations to support programs to non-recurring expenditures for projects that directly protect local infrastructure from potential damage from a hurricane. Appropriations pursuant to this subsection shall be administered by the Department of Community Affairs.

(8) ADVISORY COUNCIL.—The State Board of Administration shall appoint a nine-member advisory council that consists of an actuary, a meteorologist, an engineer, a representative of insurers, a representative of insurance agents, a representative of reinsurers, and three consumers who shall also be representatives of other affected professions and industries, to provide the board with information and advice in connection with its duties under this section. Members of the advisory council shall serve at the pleasure of the board and are eligible for per diem and travel expenses under s. 112.061.

(9) APPLICABILITY OF SECTION 19, ARTICLE III OF THE STATE CONSTITUTION.—The Legislature finds that the Florida Hurricane Catastrophe Fund created by this section is a trust fund established for bond covenants, indentures, or resolutions within the meaning of s. 19(f)(3), Art. III of the State Constitution.

(10) VIOLATIONS.—Any violation of this section constitutes a violation of the Insurance Code.

(11) FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.—Upon the creation of a federal or multistate catastrophic insurance or reinsurance program intended to serve purposes similar to the purposes of the fund created by this section, the State Board of Administration shall promptly make recommendations to the Legislature for coordination with the federal or multistate program, for termination of the fund, or for such other actions as the board finds appropriate in the circumstances.

(12) REVERSION OF FUND ASSETS UPON TERMINATION.—The fund and the duties of the board under this section may be terminated only by law. Upon termination of the fund, all assets of the fund shall revert to the General Revenue Fund.

Section 2. The Florida Hurricane Catastrophe Fund created by section 215.555, Florida Statutes, is exempt from the deduction required by section 215.20(1), Florida Statutes.

Section 3. The State Board of Administration shall, as soon as practicable after the effective date of this act, request an expedited opinion from the United States Internal Revenue Service as to the tax-exempt status of the state with respect to revenues collected under s. 215.555, Florida Statutes. The request for opinion shall also seek a determination as to whether the reimbursement levels provided in s. 215.555(4)(b), Florida Statutes, for insurers having surplus as to policyholders of $15 million or less affects such tax-exempt status.

Section 4. Subsection (3) of section 624.5091, Florida Statutes, is amended to read:

624.5091 Retaliatory provision, insurers.—

(3) This section does not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, *nor as to reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, nor as to emergency assessments paid to the Florida Hurricane Catastrophe Fund,* nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the department in determining the propriety and extent of retaliatory action under this section.

Section 5. This act shall take effect upon becoming a law, except that this act shall not take effect unless the Conference Committee Report on Committee Substitute for House Bills 33-C and 43-C becomes a law.

And the title is amended as follows:

On page 1, line 1, strike the entire title, and insert: A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; creating s. 215.555, F.S.; providing findings and purpose; providing definitions; creating the Florida Hurricane Catastrophe Fund as a trust fund under the State Board of Administration; specifying uses of moneys in the fund; specifying applicability of other laws; requiring the fund and specified insurers to enter into reimbursement contracts; specifying obligations of the fund under reimbursement contracts; requiring reports; providing for loans; requiring payment of reimbursement premium; providing for calculation of reimbursement premium; specifying accounting and regulatory treatment of reimbursement premium; requiring advance payment; providing circumstances for issuance of revenue bonds on behalf of the fund; specifying pledged revenues; authorizing units of local government to issue such bonds; requiring validation; authorizing emergency assessments; authorizing the fund to procure reinsurance; authorizing borrowing by the fund; authorizing the fund to expend certain moneys to support programs to mitigate hurricane losses; providing for appointment of an advisory council; providing for per diem and travel expenses; specifying applicability of s. 19, Art. III, State Constitution, to the fund; providing that violations constitute violations of the Insurance Code; providing for reversion of fund assets to the General Revenue Fund upon termination; providing for recommendations with respect to federal or multistate catastrophic funds; providing an exemption from the deduction required by s. 215.20(1), F.S.; requiring the State Board of Administration to request an opinion from the United States Internal Revenue Service; amending s. 624.5091, F.S.; providing that retaliatory tax does not apply to premiums and assessments paid to the Florida Hurricane Catastrophe Fund; providing an effective date.

The Conference Committee Report was read and on motion by Senator Holzendorf was adopted. **CS for HB 31-C** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—27 Nays—10

CONFERENCE COMMITTEE REPORT ON CS FOR HB's 33-C and 43-C

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for HB's 33-C and 43-C as amended by the Conference Committee Report.

John B. Phelps, Clerk

The Honorable Pat Thomas
President of the Senate

The Honorable Bolley L. Johnson
Speaker, House of Representatives

Sirs:

The Conference Committee on the disagreeing votes of the two Houses on Committee Substitute for House Bill's 33-C and 43-C, being:

A bill to be entitled An act relating to insurance;

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the Senate recede from its Amendment 1.
2. That the House and Senate adopt the Conference Committee Amendment, attached hereto, and by reference made a part of this report.
3. That the House and the Senate pass Committee Substitute for House Bill's 33-C and 43-C as amended by the Conference Committee Amendment.

s/Betty S. Holzendorf
Vice Chairman
s/John Grant
s/Ken Jenne
s/John McKay (voting no)

Managers on the part of the Senate

s/John F. Cosgrove
Chairman
s/Stan Bainter
s/Steven A. Geller
s/Debbie Wasserman-Schultz

Managers on the part of the House of Representatives

Summary of Conference Committee Action:

Section 1. Requires the Department of Insurance to create an outreach program to attract new insurers to the state.

Section 2. Creates a 3rd degree felony for knowing, willful, intentional filing of materially false financial statements.

Section 3. Provides civil immunity for providing information to the department on the financial condition of an insurer.

Section 4. (1) Increases frequency of examination of newly licensed insurers while allowing for less frequent examinations of older insurers that have demonstrated sufficient compliance; (2) authorizes the department to contract with an independent examiner upon agreement with an insurer.

Section 5. Increases initial surplus requirements to $5 million for property and casualty insurers.

Section 6. Increases surplus requirement that must be maintained after licensure to $4 million for property and casualty insurers, while phasing-in this requirement over ten years for existing insurers.

Section 7. (1) Requires property and casualty insurers to annually file an actuarial opinion of reserves. (2) Requiring exceptions or waiver from department accounting requirements to be in writing for an authorized representative of the department.

Section 8. Requires property and casualty insurers to report unusual premium growth rates.

Section 9. Adds restrictions to the use of letters of credit as approved reinsurance and for approving underwriting members of a U.S. insurance exchange.

Section 10. Removes the department's authority to grant exceptions to junk bond investment limits.

Section 11. Expands the application of the requirements of the Producer-Controlled Insurer Act.

Section 12. Increases the minimum surplus requirements for surplus lines insurers to $15 million, while providing a 10-year phase-in schedule for currently eligible surplus lines insurers.

Section 13. (1) Requires discounts for residential property insurance for properties on which fixtures actuarially demonstrated to reduce the amount of loss in a windstorm have been installed; (2) Allows rates to reflect the quality of enforcement of building codes; (3) Authorizes the department to adopt a standard uniform hurricane exposure model for reviewing rate filings; (4) Requires insurers to use 9-digit zip code rating territories.

Section 14. (1) Amortizes assessments against insurers for funding deficits in the Windstorm Pool, the Florida Property and Casualty Joint Underwriting Association (FPCJUA), and the Residential Property and Casualty Joint Underwriting Association, by limiting annual assessments and allowing for bonding. (2) Activates coverage in the FPCJUA for condominium associations and other commercial residential structures; (3) Authorizes department to activate coverage in the FPCJUA based on certain findings; (4) specifies rating criteria in the FPCJUA and RPCJUA, including assessment credits for new insurers.

Section 15. Increase notice requirements for cancellation or nonrenewal of a residential property insurance policy from 45 to 90 days.

Section 16. Authorizes the department to disapprove deductible provisions that are unclear or ambiguous.

Section 17. Requires insurers to offer replacement cost and law and ordinance coverage on all home owners policies.

Section 18. Authorizes department to adopt rules establishing pools of qualified adjusters.

Section 19. Prohibits insurers from cancelling or non-renewing, in any one year, more than 5 percent of its personal lines residential property insurance policies or more than 10 percent in any county. Provides grounds for exemptions.

Section 20. Authorizes department to require insurers to report geographic concentration of risks and to develop plans for avoiding overconcentration of risk; authorizes department to order insurers to resubmit plans to respond to department findings.

Section 21. Authorizes department to establish mediation procedures for resolution of disputed property insurance claims.

Section 22. Prohibits premium financing in excess of a specified percentage of the premium; prohibits premium financing of certain policies and products.

Section 23. Allows an insurer to cancel a policy upon receipt of a cancellation notice by a premium finance company, whether or not the premium finance company has complied with notice requirements, but allowing the insured to bring suit against the premium finance company and to collect attorney's fees.

Section 24. Requires the department to adopt rules related to insurance holding companies that conform to specified provisions in the model rules adopted by the National Association of Insurance Commissioners.

Section 25. Requires the department to study the appropriateness of classifying condominium association policies as commercial policies.

Sections 26 and 27. Technical conforming amendments.

Section 28. Effective date (upon becoming law, except as otherwise provided).

Conference Committee Amendment 1 (with Title Amendment)—On page 5, line 25, strike everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 624.307, Florida Statutes, to read:

624.307 General powers; duties.—

(7) The department shall, within existing resources, develop and implement an outreach program for the purpose of encouraging the entry of additional insurers into the Florida market.

Section 2. Effective January 1, 1994, section 624.3101, Florida Statutes, is created to read:

624.3101 False or misleading financial statements or supporting documents; penalty.—Any person who willfully files with the department, or who willfully signs for filing with the department, a materially false or materially misleading financial statement or document in support thereof required by law or rule, with intent to deceive and with knowledge that the statement or document is materially false or materially misleading, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Section 624.3102, Florida Statutes, is created to read:

624.3102 Immunity from civil liability for providing department with information about condition of insurer.—A person, other than a person filing a required report or other required information, who provides the department with information about the financial condition of an insurer is immune from civil liability arising out of the provision of the information unless the person acted with knowledge that the information was false or with reckless disregard for the truth or falsity of the information.

Section 4. Paragraph (a) of subsection (2) of section 624.316, Florida Statutes, is amended, and paragraphs (e) and (f) are added to said subsection, to read:

624.316 Examination of insurers.—

(2)(a) *Except as provided in paragraph (f),* the department may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, and shall examine each domestic insurer not less frequently than once every 3 years. The examination shall cover the preceding 3 fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer. In lieu of making its own examination, the department may accept an independent certified public accountant's audit report prepared on a statutory basis consistent with the Florida Insurance Code on that specific company. The department may not accept the report in lieu of the requirement imposed by paragraph (1)(b). When an examination is conducted by the department for the sole purpose of examining the 3 preceding fiscal years of the insurer within 12 months after the opinion date of an independent certified public accountant's audit report prepared on a statutory basis on that specific company consistent with the Florida Insurance Code, the cost of the examination as charged to the insurer pursuant to s. 624.320 shall be reduced by the cost to the insurer of the independent certified public accountant's audit reports. Requests for the reduction in cost of examination must be submitted to the department in writing no later than 90 days after the conclusion of the examination and shall include sufficient documentation to support the charges incurred for the statutory audit performed by the independent certified public accountant.

(e) The department shall adopt rules providing that, upon agreement between the department and the insurer, an examination under this section may be conducted by independent certified public accountants, actuaries meeting criteria specified by rule, and reinsurance specialists meeting criteria specified by rule. The rules shall provide:

1. That the agreement of the insurer is not required if the department reasonably suspects criminal misconduct on the part of the insurer.

2. That the department shall provide the insurer with a list of three firms acceptable to the department, and that the insurer shall select the firm to conduct the examination from the list provided by the department.

3. That the insurer being examined must make payment for the examination directly to the firm performing the examination in accordance with the rates and terms agreed to by the department, the insurer, and the firm performing the examination.

4. That if the examination is conducted without the consent of the insurer, the insurer must pay all reasonable charges of the examining firm if the examination finds impairment, insolvency, or criminal misconduct on the part of the insurer.

(f)1.a. An examination under this section must be conducted at least once every year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer. The department may limit the scope of the examination if the insurer has demonstrated sufficient compliance as determined under subparagraph 3.

b. The department may not accept an independent certified public accountant's audit report in lieu of an examination required by this subparagraph.

c. An insurer may not be required to pay more than $25,000 to cover the costs of any one examination under this subparagraph.

2. An examination under this section must be conducted not less frequently than once every 5 years with respect to an insurer that has continuously held a certificate of authority, without a change in ownership subject to s. 624.4245 or s. 628.461, for more than 15 years and has demonstrated sufficient compliance as determined under subparagraph 3. The examination must cover the preceding 5 fiscal years of the insurer or the period since the last examination of the insurer. This subparagraph does not limit the ability of the department to conduct more frequent examinations.

3. The department must, by rule, adopt procedures and criteria for determining if an insurer has demonstrated sufficient compliance with this code and cooperation with the department. The rules must include consideration of such factors as financial strength, timeliness, consumer service, economic and community contributions and support, responsiveness to department requests, and any other relevant factors. The department must annually publish and disseminate a listing of those insurers found to demonstrate sufficient compliance under the rules, including special recognition for community contributions and support.

Section 5. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer ~~hereafter~~ applying for its original certificate of authority in this state *after the effective date of this section* shall possess surplus as to policyholders not less than the greater of:

(a) *$5,000,000 for a property and casualty insurer, or* $2,500,000 *for any other insurer*;

(b) For life insurers, 4 percent of the insurer's total liabilities;

(c) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance; or

(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities;

however, no insurer shall be required under this subsection to have surplus as to policyholders greater than $100 million.

Section 6. Section 624.408, Florida Statutes, is amended to read:

624.408 Surplus as to policyholders required; new and existing insurers.—

(1)*(a)* To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state ~~that applied for its certificate of authority on or after the effective date of this act~~ shall at all times maintain surplus as to policyholders not less than the greater of:

1. ~~(a)~~ *Except as provided in subparagraph 5. and paragraph (b),* $1,500,000;

2.~~(b)~~ For life insurers, 4 percent of the insurer's total liabilities;

3.~~(c)~~ For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; or

4.~~(d)~~ For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.

5. For property and casualty insurers, $4,000,000.

(b) For any property and casualty insurer holding a certificate of authority on December 1, 1993, the following amounts apply instead of the $4,000,000 required by subparagraph (a)5.:

1. On December 31, 1994, and until December 30, 1995, $1,650,000.

2. On December 31, 1995, and until December 30, 1996, $1,800,000.

3. On December 31, 1996, and until December 30, 1997, $1,950,000.

4. On December 31, 1997, and until December 30, 1998, $2,100,000.

5. On December 31, 1998, and until December 30, 1999, $2,250,000.

6. On December 31, 1999, and until December 30, 2000, $2,500,000.

7. On December 31, 2000, and until December 30, 2001, $2,750,000.

8. On December 31, 2001, and until December 30, 2002, $3,000,000.

9. On December 31, 2002, and until December 30, 2003, $3,250,000.

10. On December 31, 2003, and until December 30, 2004, $3,600,000.

11. On December 31, 2004, and thereafter, $4,000,000.

~~(2) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act shall maintain on December 31, 1989, and until December 31, 1990, surplus as to policyholders not less than the greater of:~~

~~(a) $1,000,000;~~

~~(b) For life insurers, 3 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 3 percent of the insurer's total liabilities plus 2 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(3) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act shall maintain on December 31, 1990, and until December 31, 1991, surplus as to policyholders not less than the greater of:~~

~~(a) $1,150,000;~~

~~(b) For life insurers, 3.3 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 3.3 percent of the insurer's total liabilities plus 4 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(4) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act, shall maintain on December 31, 1991, and until December 31, 1992, surplus as to policyholders not less than the greater of:~~

~~(a) $1,300,000;~~

~~(b) For life insurers, 3.6 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 3.6 percent of the insurer's total liabilities plus 5 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(5) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act, shall maintain on December 31, 1992, and thereafter, surplus as to policyholders not less than the greater of:~~

~~(a) $1,500,000;~~

~~(b) For life insurers, 4 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

(2)~~(6)~~ For purposes of this section, liabilities shall not include liabilities required under s. 625.041(4). For purposes of computing minimum surplus as to policyholders pursuant to s. 625.305(1), liabilities shall include liabilities required under s. 625.041(4).

(3)~~(7)~~ No insurer shall be required under this section to have surplus as to policyholders greater than $100 million.

Section 7. Subsection (1) and paragraph (e) of subsection (8) of section 624.424, Florida Statutes, are amended to read:

624.424 Annual statement and other information.—

(1)(a) Each authorized insurer shall file with the department full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The department may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate department analysis, the department may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners in 1990, and may adopt subsequent amendments thereto if the methodology remains substantially consistent, and may by rule require each insurer to submit to the department or such organization as the department may designate all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system specified by the department.

(b) Each insurer's annual statement must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist, under criteria established by rule of the department. In adopting the rule, the department must consider any criteria established by the National Association of Insurance Commissioners. The department may require semiannual updates of the annual statement of opinion as to a particular insurer if the department has reasonable cause to believe that such reserves are understated to the extent of materially misstating the financial position of the insurer. Workpapers in support of the statement of opinion must be provided to the department upon request. This paragraph does not apply to life insurance or title insurance.

(c)~~(b)~~ The department may by rule require reports or filings required under the insurance code to be submitted on a computer-diskette compatible with the electronic data processing equipment specified by the department.

(8)

(e) The department shall adopt rules to implement this subsection, which rules must be in substantial conformity with the 1990 Model Rule Requiring Annual Audited Financial Reports adopted by the National Association of Insurance Commissioners, except where inconsistent with the requirements of this subsection. *Any exception to, waiver of, or interpretation of accounting requirements of the department must be in writing and signed by an authorized representative of the department. No insurer may raise as a defense in any action, any exception to, waiver of, or interpretation of accounting requirements, unless previously issued in writing by an authorized representative of the department.*

Section 8. Section 624.4243, Florida Statutes, is created to read:

624.4243 Reporting of premium growth.—

(1) Each insurer that has been authorized to transact property and casualty insurance in this state for a continuous period of less than 3 years shall monthly calculate its premium growth as follows:

(a) For the 12-month period ending on the last day of the previous month, obtain the amount of the insurer's direct and assumed written premiums for the United States and its territories.

(b) For the 12-month period immediately preceding the 12-month period specified in paragraph (a), obtain the amount of the insurer's direct and assumed written premiums for the United States and its territories.

(c) Subtract the amount of premiums calculated under paragraph (b) from the amount of premiums calculated under paragraph (a).

(d) Divide the amount of premiums determined under paragraph (c) by the amount of premiums determined under paragraph (b).

(2) Until an insurer has held a certificate of authority in this state for 24 months, the insurer shall, instead of making the calculations required under subsection (1), report to the department no later than the last day of each month the insurer's direct and assumed written premiums from the United States and its territories for the previous month.

(3) If the amount of the premium growth calculated by an insurer under this section exceeds 0.33 percent, the insurer shall, within 30 days after the end of the 12-month period ending on the last day of the previous month, file with the department a statement of the premium growth calculations under this section. The department shall adopt rules specifying the form for the report. In response to a report under this section, the department may require the insurer to submit an explanation of the insurer's pattern of premium growth.

(4) For the purposes of this section, direct and assumed written premiums shall be calculated in the same manner as for the preparation of the insurer's annual statement under s. 624.424.

Section 9. Subsection (2) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(2)(a) If a ceding insurer reinsures all or any part of any particular risk or class of risks with an approved reinsurer, the ceding insurer may receive credit in accounting and financial statements on account of such reinsurance ceded. An approved reinsurer is:

1. An assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Subject to the other requirements of this code, credit may be taken for reinsurance with an authorized insurer.

2. An assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time, the department shall publish a list of insurers approved pursuant to this subsection. Subject to the other requirements of this code, credit may be taken for reinsurance with an approved reinsurer.

3. An assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States, *which insurance exchange was licensed and in operation on or before January 1, 1993,* provided the insurance exchange presents to the department for its approval, and maintains, satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other requirements of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

4. A group of individual, unincorporated, or incorporated alien insurers which maintains funds in an amount not less than $50 million held in trust for United States policyholders and beneficiaries in a bank or trust company that is subject to supervision by any state of the United States or that is a member of the Federal Reserve System and which group satisfies the department by annually filing evidence that it can meet its obligations under its reinsurance agreements. Subject to the other requirements of this section, credit may be taken for reinsurance with a group approved under this subsection by the department.

(b) Credit in accounting and financial statements on account of reinsurance ceded to a nonapproved reinsurer may be allowed only:

1. When it is demonstrated by the ceding insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or such deposits or funds are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. The funds withheld may be cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean, *unconditional, evergreen,* and irrevocable letter of credit, issued for a term of not less than 1 year and in conformity with the requirements set forth in this subparagraph, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2. and that the letter be issued by a banking institution which is a member of the Federal Reserve System and which has financial standing satisfactory to the commissioner. *The department may adopt rules requiring that the letter adhere in its wording to a format for letters of credit as the format has been or may be adopted or approved by the National Association of Insurance Commissioners.*

(c) For the purposes of this subsection only, the term "ceding insurer" shall include any health maintenance organization operating under a certificate of authority issued under part I of chapter 641.

Section 10. Subsections (4), (7), and (8) of section 625.305, Florida Statutes, are amended to read:

625.305 Diversification.—

(4) ~~Without the prior written approval of the department,~~ The cost of investments in bonds, debentures, notes, commercial paper, or other debt obligations issued, assumed, or guaranteed by any solvent institution, ~~and~~ which *investments* are classified as medium to lower quality obligations, other than obligations of subsidiaries or related corporations as that term is defined in s. 625.325, shall be limited to:

(a) No more than 13 percent of an insurer's admitted assets.

(b) No more than 5 percent of an insurer's admitted assets in obligations that have been given a rating of 4, 5, or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(c) No more than 1.5 percent of an insurer's admitted assets in obligations that have been given a rating of 5 or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(d) No more than *0.5* ~~.5~~ percent of an insurer's admitted assets in obligations that have been given a rating of 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(e) No more than 10 percent of an insurer's admitted assets, if the investments are in issuers from any one industry.

(f) No more than 2 percent of an insurer's admitted assets if the investment is in any one issuer.

(7) ~~The provisions of~~ Subsections (4), (5), and (6) apply to any investment made after September 30, 1991. If an insurer's investments in medium to lower quality obligations equal or exceed the maximum amounts permitted by subsection (4) as of October 1, 1991, the insurer *may* ~~shall~~ not acquire any additional medium to lower quality obligations ~~without the prior written approval of the department~~. An insurer that *was* ~~is~~ not in compliance with subsection (4) as of October 1, 1991, may hold until maturity or until January 1, 1996, whichever is sooner, only those medium to lower quality obligations it *owned* ~~owns~~ on that date if such obligations were obtained in compliance with the law in effect at the time the investments were made. If the insurer sells, transfers, or otherwise disposes of such securities prior to maturity, the insurer may not acquire any medium to lower quality obligations as substitutions or replacements, *except replacement investments* ~~without the prior approval of the department. However, the consent of the department shall not be required if such replacement investment is~~ acquired for the purpose of supporting an unexpired life insurance or annuity product liability *on the condition that* ~~and~~ the insurer ~~has~~ filed with the department a schedule of such liabilities supported by the medium to lower quality investments. An insurer that *was* ~~is~~ not in compliance with subsection (4) on December 31, 1991, shall file with its annual statement a separate schedule of the medium to lower quality obligations it *owned* ~~owns~~ on December 31, 1991. Until it is in compliance with subsection (4), the insurer shall file with each succeeding annual and quarterly statement a separate schedule of the medium to lower quality obligations it owns as of the reporting date of the filed statement.

(8) ~~Failure to obtain the prior written approval of the department shall result in~~ Any investments in excess of those permitted by subsection (4) *are* not ~~being~~ allowed as an asset of the insurer.

Section 11. Paragraph (b) of subsection (2), and subsections (4) and (9) of section 626.7491, Florida Statutes, are amended to read:

626.7491 Business transacted with producer controlled property and casualty insurer.—

(2) DEFINITIONS.—As used in this section:

(b) "Control" or "controlled" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or nonmanagement services, or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing *10 percent or more* ~~a majority~~ of the outstanding voting securities of any other person. No person shall be deemed to control another person solely by reason of being an officer or director of such other person.

(4) MINIMUM STANDARDS.—

(a) The provisions of this section apply if, in any calendar year, the aggregate amount of gross written premiums on business placed with a controlled insurer by a controlling producer is equal to or greater than 5 percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's annual statement filed as of December 31 of the prior year.

(b) Notwithstanding the provisions of paragraph (a), the provisions of this *subsection and subsections (5), (6), and (7)* ~~section~~ do not apply if:

1. The controlling producer:

~~a.~~ places insurance only with the controlled insurer, or only with the controlled insurer and any members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance; ~~or~~

2.~~b.~~ *The controlling producer* accepts insurance placements only from nonaffiliated subproducers and not directly from insureds*; and*.

3.~~2.~~ The controlled insurer, except for insurance business written through a risk *apportionment* ~~appointment~~ plan as provided in s. 627.351, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

(9) DISCLOSURE REQUIREMENT.—*A* ~~No~~ property or casualty insurer *that is controlled by* ~~which has control of~~ a producer may *not* accept business from such producer in any transaction ~~in which the producer, at the time the business is placed, is acting on behalf of the insured for any compensation, commission, or thing of value~~ unless the producer, prior to the effective date of the policy, delivers written notice, signed by the insured, to the prospective insured disclosing the relationship between the insurer and the *controlling* ~~controlled~~ producer. The disclosure must be retained in the underwriting file until the filing of the report on examination covering the period in which the coverage is in effect; however, if the business is placed through a subproducer who is not a *controlling* ~~controlled~~ producer, the controlling *producer and the controlled* insurer shall retain in its records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

Section 12. Paragraphs (b) and (d) of subsection (2) of section 626.918, Florida Statutes, are amended to read:

626.918 Eligible surplus lines insurers.—

(2) No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the department in accordance with the following conditions:

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed and must have been such an insurer for not less than the 3 years next preceding or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible surplus lines insurer as to the kind or kinds of insurance proposed for a period of not less than the 3 years next preceding. However, the department may waive the 3-year requirement if the insurer provides a product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than *$25* ~~$10~~ million;

(d)*1.* The insurer must have *and maintain* surplus as to policyholders of not less than *$15 million* ~~the amount required under this code for a like authorized insurer~~; or, if an alien insurer, must have and maintain in the United States a trust fund for the protection of all its policyholders in the United States under terms deemed by the department to be reasonably adequate, in an amount *not less than $15 million* ~~equal to the capital and surplus required of authorized insurers~~. Any such surplus as to policyholders or trust fund shall be represented by investments consisting of eligible investments for like funds of like domestic insurers under part II of chapter 625;

2. For those surplus lines insurers that were eligible on January 1, 1994, and that maintained their eligibility thereafter, the required surplus as to policyholders shall be:

a. On December 31, 1994, and until December 30, 1995, $2,500,000.

b. On December 31, 1995, and until December 30, 1996, $3,500,000.

c. On December 31, 1996, and until December 30, 1997, $4,500,000.

d. On December 31, 1997, and until December 30, 1998, $5,500,000.

e. On December 31, 1998, and until December 30, 1999, $6,500,000.

f. On December 31, 1999, and until December 30, 2000, $8,000,000.

g. On December 31, 2000, and until December 30, 2001, $9,500,000.

h. On December 31, 2001, and until December 30, 2002, $11,000,000.

i. On December 31, 2002, and until December 30, 2003, $13,000,000.

j. On December 31, 2003, and thereafter, $15,000,000.

3. The capital and surplus requirements as set forth in subparagraph 2. do not apply in the case of an insurance exchange created by the laws of individual states, where the exchange maintains capital and surplus pursuant to the requirements of that state, or maintains capital and surplus in an amount not less than $50 million in the aggregate. For an insurance exchange which maintains funds in the amount of at least $12,000,000 for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus in an amount not less than $3 million. If the insurance exchange does not maintain funds in the amount of at least $12,000,000 for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements set forth in subparagraph 2.

Section 13. Section 627.0629, Florida Statutes, is created to read:

627.0629 Residential property insurance; rate filings.—

(1) Effective July 1, 1994, a rate filing for residential property insurance must include appropriate discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures actuarially demonstrated to reduce the amount of loss in a windstorm have been installed.

(2) A rate filing for residential property insurance may include rate factors that reflect the quality of enforcement of the state minimum building code adopted by a particular jurisdiction, however, such a rate filing must also provide for variations from such rate factors based on the results of an inspection of a particular structure.

(3) The department shall adopt by rule a standard hurricane loss exposure model, for use by the department in evaluating catastrophic loss factors in residential property insurance rate filings. The model shall be developed in accordance with accepted actuarial principles and consideration of experience in the insurance industry; scientific studies, forecasts, predictions, models; data of the National Weather Service and other credible independent research organizations; and such other information appropriate to designing a model that will provide reliable predictions of hurricane loss exposures. If an insurer uses a different model or other means for projecting hurricane losses, the department may require the insurer to demonstrate that the model or other means used by the insurer is at least as reliable as the standard model.

(4) Effective July 1, 1995, a rate filing for residential property insurance must use rating territories composed of whole 9-digit zip code zones.

Section 14. Subsections (2), (5), and (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(a) Agreements may be made among property insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods; and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance. Such agreements and rate modifications shall be subject to the applicable provisions of this chapter.

(b) The department shall require all insurers licensed to transact property insurance on a direct basis in this state to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage. The commissioner shall promulgate rules which provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties.

2.*a.* All insurers required to be members of such plan shall participate in its writings, expenses, profits, and losses. Such gross participation shall be in the proportion that the net direct premiums of each member written on property in this state during the preceding calendar year bear to the aggregate net direct premiums of all members of the plan written on property in this state during the preceding calendar year. The commissioner, after review of annual statements, other reports, and any other statistics which he deems necessary, shall certify to the plan the aggregate net direct premiums written on property in this state by all members. The plan of operation shall provide that one additional domestic member of the board of directors be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net written premiums of domestic companies in this state. Any such plan shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment. A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

b. Assessments to pay deficits in the plan under this subparagraph shall be included as an appropriate factor in the making of rates.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the plan was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the plan; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d. The total amount of deficit assessments under this subparagraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in paragraph (b) for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph e. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the plan, for the purpose of defraying deficits of the plan. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the plan and insurers responsible for apportionment of plan losses. The unit of local government shall enter into such contracts with the plan as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the plan from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

3. The plan shall also provide that any member with a surplus as to policyholders of $20,000,000 or less writing 25 percent of its total countrywide property insurance premiums in this state may petition the department, within 90 days of the effective date of chapter 76-96, Laws of Florida, and thereafter within the first 90 days of each calendar year, to

qualify as a limited apportionment company. The apportionment of such a company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses in the aggregate which exceeds $50,000,000 after payment of available plan funds in any calendar year. The plan shall provide that, if the department determines that any assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of a member insurer if, in the opinion of the commissioner, payment of the assessment would endanger or impair the solvency of the member insurer. In the event an assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

5. The plan may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

6. The plan may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, or a nonprofit mutual company which may be empowered, among other things, to borrow money and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, Laws of Florida, and as subsequently modified consistent with chapter 76-96, Laws of Florida. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96, Laws of Florida, shall be construed to be the assets and obligations of the successor plan created herein.

7. On such coverage, an agent's remuneration shall be that amount of money payable to him by the terms of his contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

(c) The provisions of paragraph (b) are applicable only with respect to:

1. Those areas that were eligible for coverage under this subsection on April 9, 1993; or

2. Any county or area as to which the department, after public hearing, finds that the following criteria exist:

a. Due to the lack of windstorm insurance coverage in the county or area so affected, economic growth and development is being deterred or otherwise stifled in such county or area, mortgages are in default, and financial institutions are unable to make loans;

b. The county or area so affected has adopted and is enforcing the structural requirements of the State Minimum Building Codes, as defined in s. 553.73, for new construction and has included adequate minimum floor elevation requirements for structures in areas subject to inundation; and

c. Extending windstorm insurance coverage to such county or area is consistent with and will implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.

Any time after the department has determined that the criteria referred to in this subparagraph do not exist with respect to any county or area of the state, it may, after a subsequent public hearing, declare that such county or area is no longer eligible for windstorm coverage through the plan.

(5) PROPERTY AND CASUALTY INSURANCE RISK APPORTIONMENT.—The department shall adopt by rule a joint underwriting plan to equitably apportion among insurers authorized in this state to write property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605, the underwriting of one or more classes of property insurance or casualty insurance, except for the types of insurance that are included within property insurance or casualty insurance for which an equitable apportionment plan, assigned risk plan, or joint underwriting plan is authorized under s. 627.311 or subsection (1), subsection (2), subsection (3), or subsection (4) of this section and except for risks eligible for flood insurance written through the federal flood insurance program to persons with risks eligible under subparagraph (a)1. and who are in good faith entitled to, but are unable to, obtain such property or casualty insurance coverage, including excess coverage, through the voluntary market. For purposes of this subsection, an adequate level of coverage means that coverage which is required by state law or by responsible or prudent business practices. The Joint Underwriting Association shall not be required to provide coverage for any type of risk for which there are no insurers providing similar coverage in this state. The department may designate one or more participating insurers who agree to provide policyholder and claims service, including the issuance of policies, on behalf of the participating insurers.

(a) The plan shall provide:

1. A means of establishing eligibility of a risk for obtaining insurance through the plan, which provides that:

a. A risk shall be eligible for such property insurance or casualty insurance as is required by Florida law if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market.

b. A commercial risk not eligible under sub-subparagraph a. shall be eligible for property or casualty insurance if:

(I) The insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market;

(II) Failure to secure the insurance would substantially impair the ability of the entity to conduct its affairs; and

(III) The risk is not determined by the Risk Underwriting Committee to be uninsurable.

c. In the event the Federal Government terminates the Federal Crime Insurance Program established under Title 44, Code of Federal Regulations, ss. 80-83, Florida commercial and residential risks previously insured under the federal program shall be eligible under the plan.

d.*(I)* In the event a risk is eligible under this paragraph and in the event the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less, for a given class of risk contained in the classification system defined in the plan of operation of the Joint Underwriting Association, and unless the market assistance plan provides a quotation for at least 80 percent of such applicants, such classification shall immediately be eligible for coverage in the Joint Underwriting Association. ~~Provided, however,~~

(II) As an alternative to the procedure specified in sub-sub-subparagraph (I), a classification is immediately eligible for coverage if the risk is eligible under this paragraph and if the department determines, after consulting with the insurers authorized to write property and casualty insurance in this state, that any class, line, or type of coverage of property or casualty insurance is not available at adequate levels from insurers authorized to transact and actually write that kind and class of insurance in this state or in a particular geographic area. This sub-sub-subparagraph is repealed on July 1, 1996.

(III) Any market assistance plan application which is rejected because an individual risk is so hazardous as to be practically uninsurable, considering whether the likelihood of a loss for such a risk is substantially higher than for other risks of the same class due to individual risk characteristics, prior loss experience, unwillingness to cooperate with a prior insurer, physical characteristics and physical location shall not be included in the minimum percentage calculation provided above. In the event that there is any legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the Joint Underwriting Association for a given classification, any eligible risk may obtain coverage during the pendency of any such challenge.

e. In order to qualify as a quotation for the purpose of meeting the minimum percentage calculation in this subparagraph, the quoted premium must meet the following criteria:

(I) In the case of an admitted carrier, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association or the premium developed by using the rates and rating plans on file with the department by the quoting insurer, whichever is greater.

(II) In the case of an authorized surplus lines insurer, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association by more than 25 percent, after consideration of any individual risk surcharge or credit.

f.e. Any agent who falsely certifies the unavailability of coverage as provided by sub-subparagraphs a. and b., is subject to the penalties provided in s. 626.611.

g.(I) The Legislature finds that the market conditions which this subsection is intended to remedy have arisen with respect to coverage for condominium associations, apartment buildings, common elements of homeowners associations and other commercial coverages of residences. Therefore, coverage under this subsection is hereby activated for condominium associations, apartment buildings, common elements of homeowners associations and other commercial coverages of residences. Such coverage shall continue to be provided under this subsection until coverage is deactivated pursuant to sub-sub-subparagraph (II) or sub-sub-subparagraph (III).

(II) The board shall, at least annually, review the need for coverage under this subsection. Upon recommendation by the board or any other interested party, the department may deactivate coverage if the department finds that the conditions giving rise to activation no longer exist.

(III) It is the intent of the Legislature that activation of coverage pursuant to sub-sub-subparagraph (I) and the alternative means for activation specified in sub-sub-subparagraph d.(II) be reviewed by the Legislature prior to July 1, 1996. No policies may be written pursuant to sub-sub-subparagraph (I) after July 1, 1996. Sub-sub-subparagraph d.(II) is repealed on July 1, 1996.

2. A means for the equitable apportionment of profits or losses and expenses among participating insurers.

3. Rules for the classification of risks and rates which reflect the past and prospective loss experience.

4. A rating plan which reasonably reflects the prior claims experience of the insureds. Such rating plan shall include at least two levels of rates for risks that have favorable loss experience and risks that have unfavorable loss experience, as established by the plan.

5. Reasonable limits to available amounts of insurance. Such limits may not be less than the amounts of insurance required of eligible risks by Florida law.

6. Risk management requirements for insurance where such requirements are reasonable and are expected to reduce losses.

7. Deductibles as may be necessary to meet the needs of insureds.

8. Policy forms which are consistent with the forms in use by the majority of the insurers providing coverage in the voluntary market for the coverage requested by the applicant.

9. A means to remove risks from the plan once such risks no longer meet the eligibility requirements of this paragraph. For this purpose, the plan shall include the following requirements: At each 6-month interval after the activation of any class of insureds, the board of governors or its designated committee shall review the number of applications to the market assistance plan for that class. If, based on these latest numbers, at least 90 percent of such applications have been provided a quotation, the Joint Underwriting Association shall cease underwriting new applications for such class within 30 days, and notification of this decision shall be sent to the Insurance Commissioner, the major agents' associations, and the board of directors of the market assistance plan. A quotation for the purpose of this subparagraph shall meet the same criteria for a quotation as provided in sub-subparagraph d. All policies which were previously written for that class shall continue in force until their normal expiration date, at which time, subject to the required timely notification of nonrenewal by the Joint Underwriting Association, the insured may then elect to reapply to the Joint Underwriting Association according to the requirements of eligibility. If, upon reapplication, those previously insured Joint Underwriting Association risks meet the eligibility requirements, the Joint Underwriting Association shall provide the coverage requested.

10. A means for providing credits to insurers against any deficit assessment levied pursuant to paragraph (c), for risks voluntarily written through the market assistance plan by such insurers.

11. That the Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of 13 individuals appointed by the Insurance Commissioner, and shall have an executive or underwriting committee. At least four of the members shall be representatives of insurance trade associations as follows: one member from the American Insurance Association, one member from the Alliance of American Insurers, one member from the National Association of Independent Insurers, and one member from an unaffiliated insurer writing coverage on a national basis. Two representatives shall be from two of the statewide agents' associations. Each board member shall be appointed to serve for 2-year terms beginning on a date designated by the plan and shall serve at the pleasure of the commissioner. Members may be reappointed for subsequent terms.

(b)*1. With respect to coverage of residential structures, it is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and that the association function as a residual market mechanism to provide insurance only when the insurance is unavailable in the voluntary market. Rates shall include an appropriate catastrophe factor that reflects the actual catastrophic exposure of the association. As soon as the association has developed sufficient loss experience, rates of the association shall be based on the association's actual loss experience and expenses, together with such catastrophe loading factor.*

2. This subparagraph applies to any coverage other than coverage of residential structures. Rates used by the Joint Underwriting Association shall be actuarially sound. To the extent applicable, the rate standards set forth in s. 627.062 shall be considered by the department in establishing rates to be used by the joint underwriting plan. The initial rate level shall be determined using the rates, rules, rating plans, and classifications contained in the most current Insurance Services Office (ISO) filing with the department or the filing of other licensed rating organizations with an additional increment of 25 percent of premium. For any type of coverage or classification which lends itself to manual rating for which Insurance Services Office or another licensed rating organization does not file or publish a rate, the Joint Underwriting Association shall file and use an initial rate based on the average current market rate. The initial rate level for the rate plan shall also be subject to an experience and schedule rating plan which may produce a maximum of 25 percent debits or credits. For any risk which does not lend itself to manual rating and for which no rate has been promulgated under the rate plan, the board shall develop and file with the commissioner, subject to his approval, appropriate criteria and factors for rating the individual risk. Such criteria and factors shall include, but not be limited to, loss rating plans, composite rating plans, and unique and unusual risk rating plans. The initial rates required under this paragraph shall be adjusted in conformity with future filings by the Insurance Services Office with the department and shall remain in effect until such time as the Joint Underwriting Association has sufficient data as to independently justify an actuarially sound change in such rates.

(c)1. In the event an underwriting deficit exists for any policy year the plan is in effect, any surplus which has accrued from previous years and is not projected within reasonable actuarial certainty to be needed for payment for claims in the year the surplus arose shall be used to offset the deficit to the extent available.

2. As to any remaining deficit, the Board of Governors of the Joint Underwriting Association shall levy and collect an assessment in an amount sufficient to offset such deficit. Such assessment shall be levied against the insurers participating in the plan during the year giving rise to the assessment. Any assessments against insurers for the lines of property and casualty insurance issued to commercial risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for commercial risks written during the preceding calendar year bears to the aggregate net direct premium written for commercial risks by all members of the plan for the lines of insurance included in the plan. Any assessments against insurers for the lines of property and casualty insurance issued to personal risks eligible under sub-subparagraph (a)1.a. or sub-subparagraph (a)1.c. shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for personal risks written during the preceding calendar year bears to the aggregate net direct premium written for personal risks by all members of the plan for the lines of insurance included in the plan.

3. The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer and policyholder, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer.

4. Any funds or entitlements that the state may be eligible to receive by virtue of the Federal Government's termination of the Federal Crime Insurance Program referenced in sub-subparagraph (a)1.c. may be used under the plan to offset any subsequent underwriting deficits that may occur from risks previously insured with the Federal Crime Insurance Program.

5. Assessments shall be included as an appropriate factor in the making of rates.

6.a. The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

b. The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in the introductory language of this subsection for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

c. The governing body of any unit of local government, any residents or businesses of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will provide relief to claimants and policyholders of the joint underwriting association and insurers responsible for apportionment of association losses. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

7. The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

(d) Upon adoption of the plan, all insurers authorized in this state to underwrite property or casualty insurance shall participate in the plan.

(e) A Risk Underwriting Committee of the Joint Underwriting Association composed of three members experienced in evaluating insurance risks is created to review risks rejected by the voluntary market for which application is made for insurance through the joint underwriting plan. The committee shall consist of a representative of the market assistance plan created under s. 627.3515, a member selected by the insurers participating in the Joint Underwriting Association, and a member named by the Insurance Commissioner. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the joint underwriting plan. The plan approved by the department shall establish criteria and procedures for use by the Risk Underwriting Committee for determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

1. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

2. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance and the provisions of chapter 120 shall not apply.

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(a) There is created a joint underwriting association for equitable apportionment or sharing among insurers of property and casualty insurance covering residential property, for applicants who are in good faith entitled, but are unable, to procure insurance through the admitted voluntary market. The association shall operate pursuant to a plan of operation approved by order of the department. The association shall submit a proposed plan of operation to the department no later than January 15, 1993. The plan is subject to continuous review by the department. The department may withdraw approval of all or part of a plan if the department determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan.

(b) All insurers authorized to write such insurance in this state must participate in and be members of the Residential Property and Casualty Joint Underwriting Association. Each member's portion of losses and expenses incurred must be in the proportion that the direct premiums of the member written on residential property in this state during the preceding calendar year bear to the aggregate direct premiums of all members of the association written on residential property in this state during the preceding calendar year. After review of annual statements, other reports, and any other statistics that it deems necessary, the department must certify to the association the aggregate direct premiums written on residential property in this state by all members.

(c) The plan of operation of the association:

1. May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. If more than one insurer is designated, each licensed agent shall be entitled to select the insurer who will service the business placed by the agent.

2. Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. For the purpose of this section, residential property and casualty insurance includes:

a. As to homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure with losses to be adjusted on the basis of costs of repair or replacement not to exceed a stated amount, with liability coverage up to $100,000 per claim and $300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

b. As to mobile homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure consistent with s. 627.702, with liability coverage in amounts up to $100,000 per claim and $300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms. Other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

c. As to condominium unit owners' insurance, coverage for accidental loss or damage to portions of the structure and fixtures of the unit owner that are not the responsibility of the condominium association as provided by Florida law, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents as is normally included in such policy forms without additional premium charge; and liability coverages not to exceed limits of $100,000 per claim and $300,000 aggregate per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

d. As to rental dwelling insurance, coverage for accidental loss or damage to a structure with coverage to be based on costs of repair or replacement not to exceed a stated amount, and with liability coverage in amounts up to $100,000 per claim and $300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

e. As to tenants' insurance, coverage for accidental loss or damage to betterments and improvements in the rented dwelling unit, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents in such limits as may be selected by the board; and liability coverages in amounts up to $100,000 per claim and $300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

Any policy under this subparagraph must provide deductibles for residential property and casualty insurance in a minimum of $500 per occurrence, or such higher limits as may be selected by the insured. Policies issued under this subparagraph shall not cover loss or damage caused by the enforcement of any ordinance or law regulating the construction, use, or repair of any property, or requiring the tearing down of any property, including the cost of removing its debris.

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan, and shall have the power to borrow funds and other powers reasonably necessary to effectuate the requirements of this subsection.

4. Must require that the association operate subject to the supervision and approval of a board of governors consisting of 13 individuals, including 1 who is elected as chairman. The board shall consist of:

a. The insurance consumer advocate appointed under s. 627.0613.

b. Five members designated by the insurance industry.

c. Five consumer representatives appointed by the Insurance Commissioner. Two of the consumer representatives must be holders of policies issued by the association, who are selected with consideration given to reflecting the geographic balance of association policyholders. Two of the consumer members must be individuals who are minority persons as defined in s. 288.703(3). One of the consumer members shall have expertise in the field of mortgage lending.

d. Two representatives of the insurance industry appointed by the Insurance Commissioner. Of the two insurance industry representatives appointed by the Insurance Commissioner, at least one must be an individual who is a minority person as defined in s. 288.703(3).

Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chairman, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.

5. Must provide that a risk is eligible to be insured under the plan only after coverage is activated pursuant to paragraph (e) and an attempt has been made to place the risk with an admitted insurer through the market assistance plan under s. 627.3515, which attempt was not successful, and only if the risk is determined to be insurable by the risk underwriting committee. A risk shall cease to be eligible if it receives a premium quotation from an admitted carrier at that carrier's filed rate.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide for a Risk Underwriting Committee of the association composed of three members experienced in evaluating insurance risks, to review and determine insurability of risks rejected by the voluntary market for which application is made for insurance through the association. The committee shall consist of a representative of the market assistance plan created under s. 627.3515 and two members named by the board. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the association. The plan approved by the department shall establish objective criteria and procedures for use by the Risk Underwriting Committee to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

(d)1. *It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and that the association function as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market.* Rates of the plan shall be based on *the association's actual loss experience and expenses, together with an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the association* ~~average loss costs of the five largest residential insurers, by premium volume in this state, plus appropriate factors for catastrophe loading, projected expenses of the plan, and a 25 percent increment for presumed adverse selection~~.

2. No later than *March 31 and September 30 of each* ~~9 months after the end of each calendar~~ year, the board must review and file with the department the loss and expense experience of the association. Such filing shall include a rate filing ~~based on the loss and expense experience and other relevant factors if the board determines that such a filing is appropriate~~. Any such rate filing shall contain sufficient detail to enable the department to determine that the proposed rates are not inadequate, excessive, or unfairly discriminatory pursuant to the standards provided herein and in s. 627.062.

(e) Coverage through the association is hereby activated effective upon approval of the plan, and shall remain activated until coverage is deactivated pursuant to paragraph (f). Thereafter, coverage through the association shall be reactivated by order of the department only under one of the following circumstances:

1. If the Market Assistance Plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the Market Assistance Plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any Market Assistance Plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)8. shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the department that the conditions of this

subparagraph have been met for eligibility for coverage in the association, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the department may activate coverage by order for the period of the emergency upon a finding by the department that the emergency significantly affects the availability of residential property insurance.

(f) The activities of the association shall be reviewed at least annually by the board and, upon recommendation by the board or petition of any interested party, coverage shall be deactivated if the department finds that the conditions giving rise to its activation no longer exist.

(g)*1* The board shall certify to the department its needs for annual assessments as to a particular calendar year, and any startup or interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. After the department approves such certification, the board shall levy such annual, startup, or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer. *Assessments shall be included as an appropriate factor in the making of rates.*

2.a. The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

b. The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in paragraph (a) for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

c. The governing body of any unit of local government, any residents of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the joint underwriting association and insurers responsible for apportionment of association losses. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

3. As a means of encouraging new insurers to enter the voluntary market, the plan of operation of the association must provide a formula that provides credits against assessments for an insurer's voluntarily written personal lines residential coverage, other than coverage that excludes the peril of windstorm, in areas that are determined by the board to be areas of high-potential hurricane losses. This subparagraph applies only if the insurer commenced writing personal lines residential coverage in this state after the effective date of this act. The credit provided by this subparagraph expires on December 31 of the first year in which the insurer's statewide gross written premium for personal lines residential coverage equals or exceeds 0.5 percent of the total statewide gross written premium for personal lines residential coverage, or 3 years after the date of issuance of the insurer's first personal lines residential policy in this state, whichever occurs earlier.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

(h) Nothing in this subsection shall be construed to preclude the issuance of residential property insurance coverage pursuant to part VIII of chapter 626.

(i) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Residential Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any other willful tort.

(j) The Residential Property and Casualty Joint Underwriting Association is not a state agency, board, or commission. However, for the purposes of s. 199.183(1), the Residential Property and Casualty Joint Underwriting Association shall be considered a political subdivision of the state and shall be exempt from the corporate income tax and the insurance premium tax.

(k) Upon a determination by the board of governors that the conditions giving rise to the establishment and activation of the association no longer exist, and upon the consent thereto by order of the department, the association is dissolved. Upon dissolution, the assets of the association shall be applied first to pay all debts, liabilities, and obligations of the association, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the association shall become property of the state and deposited in the Florida Hurricane Catastrophe Fund.

Section 15. Section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(1) *Except as provided in subsection (2):*

(a) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728, shall give the named insured at least 45 days' advance written notice of nonrenewal or of the renewal premium. If the policy is not to be renewed, the written notice shall state the reason or reasons as to why the policy is not to be renewed. The provisions of this section requiring 45 days' advance written notice of the renewal premium do not apply to workers' compensation and employer's liability insurance. An insurer must furnish written notice of the renewal premium to an insured covered by a policy of workers' compensation and employer's liability insurance not later than the expiration date of the policy to be renewed. This requirement applies only if the insured has furnished all of the necessary information so as to enable the insurer to develop the renewal premium prior to the expiration date of the policy to be renewed.

(b)~~(2)~~ An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other

than motor vehicle insurance subject to s. 627.728 or s. 627.7281, shall give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

1.~~(a)~~ When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given; and

2.~~(b)~~ When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. The provisions of this subsection shall not apply to individually rated risks having a policy term of less than 90 days.

(c)~~(3)~~ If an insurer fails to provide the 45-day or 20-day written notice required under this section, the coverage provided to the named insured shall remain in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension of coverage shall be calculated based upon the later rate filing.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:

(a) The insurer shall give the named insured at least 45 days' advance written notice of the renewal premium.

(b) The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 90 days prior to the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given.

2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, the policy shall not be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

(c) If the insurer fails to provide the notice required by this subsection, other than the 10-day notice, the coverage provided to the named insured shall remain in effect until the effective date of replacement coverage or until the expiration of a period of days after the notice is given equal to the required notice period, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension shall be calculated based on the later rate filing.

(3)~~(4)~~ Claims on property insurance policies that are the result of an act of God may not be used as a cause for cancellation or nonrenewal, unless the insurer can demonstrate, by claims frequency or otherwise, that the insured has failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.

Section 16. Section 627.701, Florida Statutes, is amended to read:

627.701 *Liability of insureds;* coinsurance*; deductibles* ~~contracts~~.—

(1) A property insurer may issue an insurance policy or contract covering either real or personal property in this state which contains provisions requiring the insured to be liable as a coinsurer with the insurer issuing the policy for any part of the loss or damage by covered peril to the property described in the policy only if:

(a)~~(1)~~ The following words are printed or stamped on the face of the policy, or a form containing the following words is attached to the policy: "Coinsurance contract: The rate charged in this policy is based upon the use of the coinsurance clause attached to this policy, with the consent of the insured.";

(b)~~(2)~~ The coinsurance clause in the policy is clearly identifiable; and

(c)~~(3)~~ The rate for the insurance with or without the coinsurance clause is furnished the insured upon his request.

(2) Unless the department determines that the deductible provision is clear and unambiguous, a property insurer may not issue an insurance policy or contract covering real property in this state which contains a deductible provision that:

(a) Applies solely to windstorm losses.

(b) States the deductible as a percentage rather than as a specific amount of money.

Section 17. Section 627 7011, Florida Statutes, is created to read:

627.7011 Homeowner's policies; offer of replacement cost coverage and law and ordinance coverage.—

(1) Prior to issuing a homeowner's insurance policy on or after June 1, 1994, or prior to the first renewal of a homeowner's insurance policy on or after June 1, 1994, the insurer must offer each of the following:

(a) A policy or endorsement providing that any loss which is repaired or replaced will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, but not including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

(b) A policy or endorsement providing that, subject to other policy provisions, any loss which is repaired or replaced at any location will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however, such additional costs necessary to meet applicable laws may be limited to 25 percent of the dwelling limit, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

An insurer is not required to make the offers required by this subsection with respect to the issuance or renewal of a homeowner's policy that contains the provisions specified in paragraph (b). This subsection does not prohibit the offer of a guaranteed replacement cost policy.

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the dwelling is deemed to include the coverage specified in paragraph (1)(b). The rejection or selection of alternative coverage shall be made on a form approved by the department. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the

alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews insures, extends, changes, supercedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form specified by the department at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy.

(3) Nothing in this section shall be construed to apply to policies not considered to be "homeowners' policies," as that term is commonly understood in the insurance industry. This section specifically does not apply to mobile home policies. Nothing in this section shall be construed as limiting the ability of any insurer to reject or nonrenew any insured or applicant on the grounds that the structure does not meet underwriting criteria applicable to replacement cost or law and ordinance policies or for other lawful reasons.

Section 18. Section 627.7012, Florida Statutes, is created to read:

627.7012 Pools of insurance adjusters.—The Department of Insurance may, by rule, establish a pool of qualified insurance adjusters. The rules must provide that, if a hurricane occurs or an emergency is declared, the department may assign members of the pool to the affected area and that an insurer may request that a member of the pool adjust claims in the assigned area. The rules may not require that an insurer use those adjusters assigned by the department.

Section 19. Section 627.7013, Florida Statutes, is created to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(1) FINDINGS AND PURPOSE.—The Legislature finds that personal lines residential property insurers, as a condition of doing business in this state, have a responsibility to contribute to an orderly market for personal lines residential property insurance and that there is a compelling state interest in maintaining an orderly market for personal lines residential property insurance. The Legislature further finds that Hurricane Andrew, which caused over $15 billion of insured losses in South Florida, has reinforced the need of consumers to have reliable homeowner's insurance coverage; however, the enormous monetary impact to insurers of Hurricane Andrew claims has prompted insurers to propose substantial cancellation or nonrenewal of their homeowner's insurance policyholders. The Legislature further finds that the massive cancellations and nonrenewals announced, proposed, or contemplated by certain insurers constitute a significant danger to the public health, safety, and welfare, and destabilize the insurance market. In furtherance of the overwhelming public necessity for an orderly market for property insurance, the Legislature, in ch. 93-401, Laws of Florida, imposed, for a limited time, a moratorium on cancellation or nonrenewal of personal lines residential property insurance policies. The Legislature further finds that upon expiration of the moratorium, additional actions are required to maintain an orderly market for personal lines residential property insurance in this state. The purposes of this section are to provide for a phaseout of the moratorium and to require advance planning and approval for programs of exposure reduction.

(2) MORATORIUM PHASEOUT.—

(a) Effective upon the expiration of the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies under ch. 93-401, Laws of Florida, the following restrictions shall apply to the cancellation or nonrenewal of personal lines residential property insurance policies that were in force on November 14, 1993, and were subject to the moratorium:

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its homeowner's policies, 5 percent of its mobile home owner's policies, or 5 percent of its personal lines residential policies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with respect to any county, cancel or nonrenew more than 10 percent of its homeowner's policies, 10 percent of its mobile home owner's policies, or 10 percent of its personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of like policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider, and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the reinsurance available to the insurer; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since May 19, 1993.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if:

(I) The policy was canceled or nonrenewed for an underwriting reason, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure;

(II) The cancellation or nonrenewal was initiated by the insured; or

(III) The cancellation or nonrenewal was due to the failure of the insured to comply with a condition of coverage and was approved by the department in order to reduce the risk of loss from hurricane exposure.

d. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. This subsection and the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies under chapter 93-401, Laws of Florida, do not prohibit any cancellations or nonrenewals of such policies by insurers that ceased writing such policies pursuant to an express or deemed approval under ss. 624.430 and 120.60(2) before the effective date of chapter 93-401, Laws of Florida.

4. Notwithstanding any provisions of this act to the contrary, this act shall not apply to the application of any insurer for exemption from chapter 93-401, Laws of Florida, if the insurer's application for exemption under chapter 93-401, Laws of Florida, or under emergency rules promulgated by the department respecting a moratorium on the cancellation or nonrenewal of insurance policies, or under both of the foregoing, was received by the department, and:

a. The department has entered an order granting the insurer an exemption from chapter 93-401, Laws of Florida; or

b. The department has entered an order recognizing the insurer's entitlement to an exemption from chapter 93-401, Laws of Florida, and recognizing the right of the insurer to an exemption if a program of voluntary policy holder nonrenewal approved by the department in the order does not result in a reduction in exposure to risk of losses on account of a hurricane to the level sought by the insurer in its application for exemption from chapter 93-401, Laws of Florida; or

c. The denial, in whole or in part, of the insurer's application for exemption from chapter 93-401, Laws of Florida, is the subject of proceedings under s. 120.57 or of judicial review, or of both, instituted prior to the date that this Act becomes law.

In respect to any proceedings for review of the denial, in whole or in part, of an insurer's application for exemption from chapter 93-401, Laws of Florida, under s. 120.57 or judicial review thereof, nothing in the preceding paragraphs of this section, or any part thereof, shall be considered as clarifying the intent of the Legislature as to the meaning of the provisions

of chapter 93-401, Laws of Florida, providing for the exemption of insurers from the provisions of that law; nor shall anything in the preceding paragraphs of this section, or any part thereof, be considered as having application to the question of the correctness or incorrectness of the department's denial of an exemption application, in whole or in part, under the provisions of that law. Any insurer found to be entitled to exemption, in whole or in part, under the provisions of chapter 93-401, Laws of Florida, in any proceedings now pending to challenge the department's denial of the insurer's request for exemption shall not be subject to the provisions of this act.

(b) The department may adopt rules to implement this subsection.

(c) This subsection is repealed on November 14, 1996.

Section 20. Section 627.7015, Florida Statutes, is created to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(1) PURPOSE AND SCOPE.—This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties who elect this procedure to resolve their claims disputes because most homeowner's insurance policies obligate insureds to participate in a potentially expensive and time-consuming adversarial appraisal process prior to litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible. This section is available with respect to claims under personal lines policies for all claimants and insurers prior to commencing the appraisal process, or commencing litigation. If requested by the insured, participation by legal counsel shall be permitted. Mediation under this section is also available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time a first-party claim within the scope of this section is filed, the insurer shall notify all first-party claimants of their right to participate in the mediation program under this section. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation under this section.

(3) The costs of mediation shall be reasonable, and the insurer shall bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If an insured fails to appear at the conference, the conference shall be rescheduled upon the insured's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer shall pay the insured's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the administrator shall include a charge necessary to defray the expenses of the department related to its duties under this section and shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may also adopt special rules which are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:

(a) Reasonable requirement for processing and scheduling of requests for mediation.

(b) Qualifications of mediators as provided in s. 627.745 and in the Florida Rules of Certified and Court Appointed Mediators, and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate.

(c) Provisions governing who may attend mediation conferences.

(d) Selection of mediators.

(e) Criteria for the conduct of mediation conferences.

(f) Right to legal counsel.

(5) All statements made and documents produced at a mediation conference shall be deemed to be settlement negotiations in anticipation of litigation within the scope of s. 90.408. All parties to the mediation must negotiate in good faith and must have the authority to immediately settle the claim. Mediators are deemed to be agents of the department and shall have the immunity from suit provided in s. 44.107.

(6) Mediation is nonbinding; however, if a written settlement is reached, the insured has 3 business days within which the insured may rescind the settlement unless the insured has cashed or deposited any check or draft disbursed to the insured for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it shall be binding and act as a release of all specific claims that were presented in that mediation conference.

(7) If the insurer requests the mediation, and the mediation results are rejected by either party, the insured shall not be required to submit to or participate in any contractual loss appraisal process of the property loss damage as a precondition to legal action for breach of contract against the insurer for its failure to pay the policyholder's claims covered by the policy.

(8) The department may designate an entity or person to serve as administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

Section 21. Section 627.8405, Florida Statutes, is amended to read:

627.8405 Prohibited premium financing.—No premium finance company shall, in a premium finance agreement, provide financing for the cost of:

(1) A membership in an automobile club. The term "automobile club" means a legal entity which, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use, or maintenance of a motor vehicle; however, this definition of "automobile club" does not include persons, associations, or corporations which are organized and operated solely for the purpose of conducting, sponsoring, or sanctioning motor vehicle races, exhibitions, or contests upon racetracks, or upon racecourses established and marked as such for the duration of such particular events. The words "motor vehicle" used herein have the same meaning as defined in chapter 320.

(2) An accidental death and dismemberment policy sold in combination with a personal injury protection *and property damage* only policy.

(3) Any amount in excess of 70 percent of the original premium or any subsequent premium adjustment on any insurance contract, other than a commercial insurance contract, of 12 months' or more duration, or any amount in excess of 50 percent of the original premium or any subsequent premium adjustment on any insurance contract, other than a commercial insurance contract, of less than 12 months' duration.

(4) Any product not regulated under the provisions of this insurance code.

This section also applies to premium financing by any insurance agent or insurance company under part XVI. The department shall promulgate rules to assure disclosure, at the time of sale, of coverages financed with personal injury protection.

Section 22. Section 627.848, Florida Statutes, is amended to read:

627.848 Cancellation of insurance contract upon default.—

(1) When a premium finance agreement contains a power of attorney or other authority enabling the premium finance company to cancel any insurance contract listed in the agreement, the insurance contract shall not be canceled unless cancellation is in accordance with the following provisions:

(a)1.~~(1)~~ Not less than 10 days' written notice shall be mailed to each insured shown on the premium finance agreement of the intent of the premium finance company to cancel his insurance contract unless the defaulted installment payment is received within 10 days.

2.~~(2)~~ After expiration of such period, the premium finance company shall mail to the insurer a request for cancellation, specifying the effec-

tive date of cancellation and the unpaid premium balance due under the finance contract, and shall mail a copy thereof to the insured at his last known address as shown on the premium finance agreement.

(b)~~(3)~~ Every notice of cancellation shall include, in type or print of which its face shall not be smaller than 12 points, a statement that, if the insurance contract or contracts provide motor vehicle liability insurance required by the financial responsibility law, proof of financial responsibility is required to be maintained continuously for a period of 3 years, pursuant to chapter 324, and the operation of a vehicle without such financial responsibility is unlawful.

(c)~~(4)~~ Upon receipt of a copy of the cancellation notice by the insurer or insurers, the insurance contract shall be canceled with the same force and effect as if the notice of cancellation had been submitted by the insured himself, *whether or not the premium finance company has complied with the notice requirement of this subsection,* without requiring any further notice to the insured or the return of the insurance contract.

(d)~~(5)~~ All statutory, regulatory, and contractual restrictions providing that the insured may not cancel his insurance contract unless he or the insurer first satisfies such restrictions by giving a prescribed notice to a governmental agency, the insurance carrier, a mortgagee, an individual, or a person designated to receive such notice for such governmental agency, insurance carrier, or individual shall apply when cancellation is effected under the provisions of this section. The insurer, in accordance with such prescribed notice when it is required to give such notice in behalf of itself or the insured, shall give notice to such governmental agency, person, mortgagee, or individual; and it shall determine and calculate the effective date of cancellation from the day it receives the copy of the notice of cancellation from the premium finance company.

(e)~~(6)~~ Whenever an insurance contract is canceled in accordance with this section, the insurer shall promptly return the unpaid balance due under the finance contract, up to the gross amount available upon the cancellation of the policy, to the premium finance company and any remaining unearned premium to the agent or the insured, or both, for the benefit of the insured or insureds.

(f) If an insurance contract is canceled by an insurer upon the receipt of a copy of the cancellation notice from a premium finance company, and if such premium finance company has failed to provide the notice required by this subsection, the insured shall have a cause of action against the premium finance company for damages caused by such failure to provide notice.

(2) Any court of this state rendering or affirming a judgment or decree against a premium finance company and in favor of any named or omnibus insured or beneficiary arising out of a wrongful or improper cancellation of an insurance policy by such premium finance company shall award reasonable attorney's fees to the insured or beneficiary.

Section 23. Section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—Every insurer which is authorized to do business in this state and which is a member of an insurance holding company shall register with the department and be subject to regulation with respect to its relationship to such holding company as provided by rule or statute. The department shall *adopt* ~~promulgate~~ rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. *The rules shall apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of sections 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed in January 1, 1993, and may include a prohibition on oral contracts between affiliated entities. Upon request, the department may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.* ~~Such rules shall be in substantial conformity to those standards set forth in Chapter 4-26, Florida Administrative Code, as such rule provisions existed on January 1, 1985, and shall be promulgated pursuant to s. 624.308. It is specifically provided that, until superseding rule provisions become effective, Chapter 4-26, Florida Administrative Code, shall be deemed to implement this provision.~~

Section 24. *The Department of Insurance shall, within existing resources, conduct a study of the appropriateness of classifying condominium association master policies as commercial insurance policies, including consideration of issues involved with the possible inclusion of condominium association master policies within the Residential Property and Casualty Joint Underwriting Association with a separate base for deficit assessments, and including consideration of those provisions of law applicable to personal lines policies that might also be applied to condominium association policies. The department shall, by January 1, 1994, complete its study and make recommendations to the Speaker of the House of Representatives, the President of the Senate, the majority and minority leaders of each house, and the chairs of the committees of each house having primary jurisdiction over insurance matters.*

Section 25. Subsection (1) of section 625.330, Florida Statutes, is amended to read:

625.330 Special investments by title insurer.—

(1) In addition to other investments eligible under this part, a title insurer may invest and have invested an amount not exceeding the greater of $300,000 or 50 percent of that part of its surplus as to policyholders which exceeds the minimum surplus required by s. 624.408~~(3) and (4)~~ in its abstract plant and equipment, in loans secured by mortgages on abstract plants and equipment, and, with the consent of the department, in stocks of abstract companies. If the insurer transacts kinds of insurance in addition to title insurance, for the purposes of this section its paid-in capital stock shall be prorated between title insurance and such other insurances upon the basis of the reserves maintained by the insurer for the various kinds of insurance; but the capital so assigned to title insurance shall in no event be less than $100,000.

Section 26. Subsections (9) and (10) of section 631.011, Florida Statutes, are amended to read:

631.011 Definitions.—For the purpose of this part, the term:

(9) "Impairment of capital" means that the minimum surplus required to be maintained in s. 624.408~~(3)~~ has been dissipated and the insurer is not possessed of assets at least equal to all its liabilities together with its total issued and outstanding capital stock, if a stock insurer, or the minimum surplus or net trust fund required by s. 624.407, if a mutual, reciprocal, or business trust insurer.

(10) "Impairment of surplus" means that the surplus of a stock insurer, the additional surplus of a mutual or reciprocal insurer, or the additional net trust fund of a business trust insurer does not comply with the requirements of s. 624.408~~(3)~~.

Section 27. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 1, strike the entire title and insert: A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to implement a program to encourage the entry of additional insurers into the Florida market; creating s. 624.3101, F.S.; prohibiting false or misleading financial statements; providing penalties; creating s. 624.3102, F.S.; providing immunity from civil liability for persons who provide the department with certain information about insurers; amending s. 624.316, F.S.; removing limitation of examination authority to domestic insurers; limiting acceptability of examination reports of foreign insurers; providing for conduct of examinations by independent examiners; specifying frequency of examinations of insurers; providing for adoption of rules; amending s. 624.407, F.S.; increasing the minimum surplus as to policyholders required for issuance of a certificate of authority as a property and casualty insurer; amending s. 624.408, F.S.; increasing the minimum surplus as to policyholders required for maintenance of a certificate of authority as a property and casualty insurer; amending s. 624.424, F.S.; requiring an insurer's annual statement to include a statement of opinion on reserves; limiting waivers of accounting requirements; creating s. 624.4243, F.S.; providing for computation and reporting of premium growth; specifying powers of the department; amending s. 624.610, F.S.; providing criteria for classification as an approved reinsurer; authorizing rules with respect to the letter of credit; authorizing use by the Department of Insurance of reinsurance consultants under certain conditions; providing procedures and requirements with respect thereto and regarding the reinsurance evaluation; providing for payment for evaluation costs; amending s. 625.305, F.S.; removing

authority of the department to waive certain investment restrictions; amending s. 626.7491, F.S.; specifying when an insurer is presumed to be producer-controlled; specifying application of certain provisions; providing exceptions; specifying producers from which insurers may accept business; amending s. 626.918, F.S.; increasing minimum surplus requirements for surplus lines insurers; creating s. 627.0629, F.S.; requiring residential property insurance rate filings to include rate differentials for properties on which certain fixtures have been installed; authorizing such rate filings to include factors reflecting the quality of particular building codes and enforcement thereof; providing for adoption and use of a standard hurricane loss exposure model; providing criteria for territories used in property insurance rate filings; amending s. 627.351, F.S.; revising provisions with respect to deficit assessments in the windstorm insurance risk apportionment plan; authorizing issuance of bonds on behalf of the plan; requiring insurers to purchase bonds in specified circumstances; providing circumstances under which a classification is immediately eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; activating coverage with respect to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions with respect to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing for dissolution of the association; amending s. 627.4133, F.S.; specifying period for notice of nonrenewal, renewal premium, and cancellation; amending s. 627.701, F.S.; specifying powers of the department with respect to deductible provisions in certain policies; creating s. 627.7011, F.S.; requiring certain provisions to be offered with respect to homeowner's policies; providing for rejection or selection of alternative coverages; requiring notice; creating s. 627.7012, F.S.; authorizing the department to establish pools of qualified adjusters for use in emergencies; creating s. 627.7013, F.S.; providing findings and purpose; limiting cancellation or nonrenewal of policies that were subject to the moratorium contained in ch. 93-401, Laws of Florida; providing for future repeal; creating s. 627.7015, F.S.; requiring the department to adopt a mediation program for first-party claims under personal lines residential policies; providing purpose and scope; requiring notice; providing for payment of costs; requiring adoption of rules; providing for treatment as negotiations in anticipation of litigation; requiring negotiation in good faith; requiring participants to have the authority to settle; providing immunity for mediators; specifying effects of mediation; specifying time within which insured may rescind settlement; authorizing the department to delegate certain duties; amending s. 627.8405, F.S.; prohibiting certain premium financing; amending s. 627.848, F.S.; revising provisions relating to cancellation of certain insurance contracts upon default in premium finance agreements; amending s. 628.801, F.S.; specifying content and applicability of rules relating to insurance holding companies; requiring the Department of Insurance to conduct a study of the classification of condominium association coverage; requiring reports; amending ss. 625.330 and 631.011, F.S.; correcting cross references; providing effective dates.

The Conference Committee Report was read and on motion by Senator Holzendorf was adopted. **CS for HB's 33-C and 43-C** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—37 Nays—None

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 2, 3 and 4; refused to concur in Senate Amendment 5 and requests the Senate to recede; adopted as further amended HCR 67-C and requests the concurrence of the Senate.

John B. Phelps, Clerk

HCR 67-C—A concurrent resolution providing for amendment of Joint Rule One, Joint Rules of the Senate and House of Representatives, relating to lobbyist registration and reporting; revising registration requirements; providing definitions; requiring committee appearance records; revising the method of registration; revising fees; revising reporting periods; providing categories, expenditure valuation procedures, and types of reports; revising exemptions from reporting; revising the method for requesting opinions regarding registration; providing for informal opinions; revising open records provisions; providing for records retention and inspection; providing for implementation.

MOTION

On motion by Senator Kirkpatrick, the Senate receded from **Senate Amendment 5**.

HCR 67-C was adopted as amended and the action of the Senate certified to the House. The vote on adoption was:

Yeas—34 Nays—None

CONFERENCE COMMITTEE REPORT ON CS FOR CS FOR HB 91-C

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for CS for HB 91-C as amended by the Conference Committee Report.

John B. Phelps, Clerk

The Honorable Pat Thomas
President of the Senate

The Honorable Bolley L. Johnson
Speaker, House of Representatives

Sirs:

Your Conference Committee on the disagreeing votes of the two Houses on Committee Substitute for Committee Substitute for House Bill 91-C, the same being:

An act relating to weapons and firearms;

having met, and after full and free conference, have agreed to recommend and do recommend to their respective Houses, as follows:

1. That the Senate recede from its amendment(s) to the House Bill.
2. That the Senate and House of Representatives adopt the Conference Committee Amendment attached hereto, and by reference made a part of this report.
3. That the Senate and the House pass Committee Substitute for Committee Substitute for House Bill 91-C as amended by said Conference Committee Amendment.

s/Ron Silver	*Elvin L. Martinez*
s/Malcolm Beard	*s/Buzz Ritchie*
s/Gary Siegel	*s/Willie Logan, Jr.*
s/Robert Wexler	*s/Sandra Mortham*
s/Matthew Meadows	*s/Carlos L. Valdes*
s/William G. Myers, M.D.	*s/John Long*
Managers on the part of the Senate	Managers on the part of the House of Representatives

Conference Committee Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. *A law enforcement agency may release for publication the name and address of a child who has been convicted of any offense involving possession or use of a firearm.*

Section 2. Section 790.17, Florida Statutes, is amended to read:

790.17 Furnishing weapons to minors under 18 years of age *or persons of unsound mind and furnishing firearms to minors under 18 years of age prohibited*~~, etc.~~.—

(1) A person who ~~Whoever~~ sells, hires, barters, lends, *transfers,* or gives any minor under 18 years of age any ~~pistol,~~ dirk, electric weapon or device, or other ~~arm or~~ weapon, other than an ordinary pocketknife, without permission of the *minor's* parent *or guardian* ~~of such minor, or the person having charge of such minor~~, or sells, hires, barters, lends, *transfers,* or gives to any person of unsound mind an electric weapon or device or any dangerous weapon, other than an ordinary pocketknife, *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person may not knowingly or willfully sell or transfer a firearm to a minor under 18 years of age, except that a person may transfer ownership of a firearm to a minor with permission of the parent or guardian. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The parent or guardian must maintain possession of the firearm except pursuant to s. 790.22.

Section 3. Section 790.175, Florida Statutes, is amended to read:

790.175 Transfer or sale of firearms; required warnings; penalties.—

(1) Upon the retail commercial sale or retail transfer of any firearm, the seller or transferor shall deliver a written warning to the purchaser or transferee, which warning states, in block letters not less than 1/4 inch in height:

IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR *UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND.*"

(2) Any retail or wholesale store, shop, or sales outlet which sells firearms must conspicuously post at each purchase counter the following warning in block letters not less than 1 inch in height:

IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR *UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND.*"

(3) Any person or business knowingly violating a requirement to provide warning under this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(4) As used in this act, the term "minor" means any person under the age of 16.~~

Section 4. Section 790.18, Florida Statutes, is amended to read:

790.18 *Sale or transfer of* ~~Selling~~ arms to minors by dealers.—It is unlawful for any dealer in arms to sell *or transfer* to *a minor* ~~minors~~ any *firearm,* pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, slungshot, or electric weapon or device. ~~A, and every~~ person *who violates* ~~violating~~ this section *commits* ~~shall be guilty of~~ a *felony* ~~misdemeanor~~ of the *second* ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, *or 775.084.*

Section 5. Section 790.22, Florida Statutes, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, *or* electric weapons or devices~~, or firearms~~ by *minor* ~~child~~ under 16; limitation*; possession of firearms by minor under 18 prohibited; penalties.*—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, *or* electric weapons or devices, ~~or firearms as defined in s. 790.001~~ by any *minor* ~~child~~ under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult *who is acting with the consent of the minor's parent.*

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Health and Rehabilitative Services, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) At any time after this act becomes law, but no later than July 1, 1994, the district juvenile justice boards or county juvenile justice councils or the Department of Health and Rehabilitative Services shall establish appropriate community service programs to be available to circuit courts in implementing this subsection. The boards or councils or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the court, at any time after this act becomes law.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffitti and restoration of vandalized property.

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree, and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, the minor shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm.

(8) Notwithstanding s. 39.042 or s. 39.044(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. Effective April 15, 1994, at the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 39.044(5), if the court finds that the minor meets the criteria specified in s. 39.044(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or the community. The Department of Health and Rehabilitative Services shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor, whether or not the minor was represented by private counsel or a public defender, the current offense, and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Health and Rehabilitative Services must send the form, including a copy of any order, without client identifying information, to the Division of Economic and Demographic Research of the Joint Legislative Management Committee.

(9) Notwithstanding s. 39.043, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Health and Rehabilitative Services, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor serve a mandatory period of detention of 5 days in a secure detention facility and perform 100 hours of community service.

(b) For a second or subsequent offense, that the minor serve a mandatory period of detention of 10 days in a secure detention facility and perform not less than 100 nor more than 250 hours of community service.

The minor shall receive credit for time served before adjudication.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 6. Section 790.23, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 790.23, F.S., for present text.)

790.23 Felons and delinquents; possession of firearms or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony or found to have committed a delinquent act that would be a felony if committed by an adult in the courts of this state;

(b) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(c) Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year; or

(d) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored, or to a person found to have committed a delinquent act that would be a felony if committed by an adult with respect to which the jurisdiction of the court pursuant to chapter 39 has expired.

(3) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Subsection (5) of section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.—

(5) POSSESSION IN PRIVATE CONVEYANCE.—Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 *for a person 18 years of age or older* to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012.

Section 8. *Effective July 1, 1994, if the child was 14 or more years of age at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons for not making such request, and the court, upon the state attorney's request, shall issue the order to so transfer and certify the child or provide written reasons for nonissuance.*

Section 9. *The Department of Health and Rehabilitative Services shall prepare public service announcements for dissemination to parents throughout the state, of the provisions of this act.*

Section 10. *There is hereby appropriated a lump sum of $2,197,810 from the General Revenue Fund and 94 additional full-time positions are authorized for the Juvenile Justice Program in the Department of Health and Rehabilitative Services. This shall be used for operational funding for the secure detention, case management for community service, and commitment programs for delinquent youth. Further, $4,600,000 is hereby transferred from current surplus funds in the General Revenue Fund previously appropriated for AFDC, to be used for additional commitment resources for the Juvenile Justice Program in the Department of Health and Rehabilitative Services.*

Section 11. Except as otherwise expressly provided in this act, this act shall take effect January 1, 1994.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to weapons and firearms; authorizing a law enforcement agency to release the name and address of a minor who has been adjudicated guilty of an offense involving possession or use of a firearm; amending s. 790.17, F.S.; prohibiting certain transfer to a minor of a weapon, or electric weapon or device; prohibiting sale or transfer to a minor of a firearm and providing that a violation constitutes a third-degree felony; amending s. 790.175, F.S.; redefining the term "minor"; requiring that the purchaser of a firearm be informed that it is unlawful to store or leave a firearm within access of a minor or to knowingly sell or transfer a firearm to a minor or a person of unsound mind; amending s. 790.18, F.S.; prohibiting an arms dealer from selling or transferring a firearm or certain other weapons to a minor; increasing the penalty for a violation from a misdemeanor to a felony; amending s. 790.22, F.S.; prohibiting a minor from possessing a firearm; providing certain exceptions; prohibiting adults responsible for a minor from knowingly and willfully permitting the minor to unlawfully possess a firearm; providing penalties for a violation by an adult; authorizing the court to require that a parent participate in classes on parenting education; authorizing community service hours in certain circumstances and requiring the establishment of circuit community service programs; providing penalties for a violation by a minor; requiring that a minor charged with certain offenses involving the use or possession of a firearm be detained in secure detention unless the state attorney authorizes the minor's release; providing for a hearing within a specified period; providing circumstances under which the court may order that the minor continue to be held in secure detention; requiring the Department of Health and Rehabilitative Services to collect certain data and submit it to the Division of Economic and Demographic Research; requiring the court to order a minimum mandatory period of secure detention in addition to other punishments provided by law if the minor is found to have committed certain offenses involving the use or possession of a firearm and is not committed to a residential commitment program of the Department of Health and Rehabilitative Services; providing for mandatory revocation or suspension of the driving privilege if a minor is found to have committed certain offenses involving the use or possession of a firearm; providing for enhanced penalties; providing for the seizure and disposal of a firearm used or possessed unlawfully by a minor; providing that such provisions are supplemental to certain other criminal sanctions; providing for the secure detention of a minor charged with a violation of certain provisions of ch. 790, F.S., pending a court hearing; amending s. 790.23, F.S.; prohibiting felons, and juveniles found to have committed a delinquent act that would be a felony if committed by an adult, from using or possessing a firearm under certain conditions; providing exceptions; providing penalties; amending s. 790.25, F.S.; limiting authorization for possession in private conveyance to persons over 18; directing the Department of Health and Rehabilitative Services to prepare and disseminate public service announcements; requiring the state attorney to request adult prosecution of minors in certain circumstances; providing appropriations; providing effective dates.

WHEREAS, the love affair between juveniles and firearms has reached an all-time high here in Florida, and

WHEREAS, the courts, the Legislature, and law enforcement cannot be the sole solution to stem our rising juvenile crime statistics, and

WHEREAS, it is the will of the Legislature and all Floridians that parental involvement, accountability, and responsibility become the key to solving our existing broken juvenile criminal justice system, and

WHEREAS, it is the will of Floridians all across this great state of ours that juveniles who violate laws pertaining to the illegal use of firearms be dealt with in a swift and certain and severe manner, and

WHEREAS, it is time for the Governor, the President of the Senate, and the Speaker of the House of Representatives, along with the Republican leaders of the Senate and House of Representatives, to seek relief from our counterparts in the United States Congress by cutting the federally mandated ties that bind us from curing our juvenile crime problems here at home, as said laws prevent us from using stricter, harsher, and more certain penalties in detaining Florida's juveniles, NOW, THEREFORE,

The Conference Committee Report was read and on motion by Senator Silver was adopted. **CS for CS for HB 91-C** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—36 Nays—None

FINAL ACTION

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed SB 54-C.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered enrolled.

ROLL CALLS ON SENATE BILLS

SB 30-C

Yeas—27

Mr. President	Diaz-Balart	Hargrett	Siegel
Bankhead	Dyer	Holzendorf	Silver
Beard	Foley	Kirkpatrick	Sullivan
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Crenshaw	Gutman	Meadows	Wexler
Crist	Harden	Myers	

Nays—None

Vote after roll call:

Yea—Boczar, Forman, Jenne, Johnson, McKay

SB 54-C

Yeas—33

Bankhead	Dyer	Jenne	Scott
Boczar	Foley	Jennings	Siegel
Brown-Waite	Forman	Johnson	Sullivan
Burt	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	
Dantzler	Hargrett	Meadows	
Diaz-Balart	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Beard

ROLL CALLS ON HOUSE BILLS

CS for HB 31-C
Conference Committee Report

Yeas—27

Mr. President	Crenshaw	Foley	Gutman
Bankhead	Crist	Forman	Harden
Childers	Diaz-Balart	Grant	Holzendorf

Jenne	Kiser	Scott	Weinstein
Jennings	McKay	Siegel	Wexler
Johnson	Meadows	Silver	Williams
Kirkpatrick	Myers	Sullivan	

Nays—10

Beard	Burt	Grogan	Turner
Boczar	Dantzler	Hargrett	
Brown-Waite	Dyer	Kurth	

CS for HB's 33-C and 43-C
Conference Committee Report

Yeas—37

Mr. President	Diaz-Balart	Jenne	Siegel
Bankhead	Dyer	Jennings	Silver
Beard	Foley	Johnson	Sullivan
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kiser	Weinstein
Burt	Grogan	Kurth	Wexler
Childers	Gutman	McKay	Williams
Crenshaw	Harden	Meadows	
Crist	Hargrett	Myers	
Dantzler	Holzendorf	Scott	

Nays—None

HCR 67-C

Yeas—34

Mr. President	Dantzler	Holzendorf	Scott
Bankhead	Diaz-Balart	Jenne	Siegel
Beard	Foley	Jennings	Silver
Boczar	Forman	Johnson	Turner
Brown-Waite	Grant	Kirkpatrick	Weinstein
Burt	Grogan	Kurth	Wexler
Childers	Gutman	McKay	Williams
Crenshaw	Harden	Meadows	
Crist	Hargrett	Myers	

Nays—None

Vote after roll call:

Yea—Sullivan

HB 73-C

Yeas—37

Mr. President	Diaz-Balart	Jenne	Siegel
Bankhead	Dyer	Jennings	Silver
Beard	Foley	Johnson	Sullivan
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kiser	Weinstein
Burt	Grogan	Kurth	Wexler
Childers	Gutman	McKay	Williams
Crenshaw	Harden	Meadows	
Crist	Hargrett	Myers	
Dantzler	Holzendorf	Scott	

Nays—None

CS for CS for HB 91-C
Conference Committee Report

Yeas—36

Mr. President	Beard	Brown-Waite	Childers
Bankhead	Boczar	Burt	Crenshaw
Crist	Grogan	Johnson	Scott
Dantzler	Gutman	Kirkpatrick	Siegel
Diaz-Balart	Harden	Kiser	Silver
Dyer	Hargrett	Kurth	Sullivan
Foley	Holzendorf	McKay	Turner
Forman	Jenne	Meadows	Weinstein
Grant	Jennings	Myers	Williams

Nays—None

HB 131-C

Yeas—36

Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dyer	Jenne	Scott
Boczar	Foley	Jennings	Siegel
Brown-Waite	Forman	Johnson	Silver
Burt	Grant	Kirkpatrick	Sullivan
Childers	Grogan	Kiser	Turner
Crenshaw	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams

Nays—None

VOTES RECORDED AFTER ROLL CALL

On motion by Senator Forman, by unanimous consent of the Senate, he was recorded as voting "yea" on **SB 30-C**.

On motion by Senator Jenne, by unanimous consent of the Senate, he was recorded as voting "yea" on **SB 30-C**.

On motion by Senator Boczar, by unanimous consent of the Senate, he was recorded as voting "yea" on **SB 30-C**.

On motion by Senator Johnson, by unanimous consent of the Senate, she was recorded as voting "yea" on **SB 30-C**.

On motion by Senator McKay, by unanimous consent of the Senate, he was recorded as voting "yea" on **SB 30-C**.

On motion by Senator Sullivan, by unanimous consent of the Senate, he was recorded as voting "yea" on **HCR 67-C**.

On motion by Senator Meadows, by unanimous consent of the Senate, he was recorded as voting "yea" in the original roll call on **CS for HB 31-C**.

On motion by Senator Beard, by unanimous consent of the Senate, he was recorded as voting "yea" on **SB 54-C**.

ENROLLING REPORTS

CS for SB 32-C has been enrolled, signed by the required Constitutional Officers and presented to the Governor on November 9, 1993.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of November 5 was corrected and approved.

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 7:50 p.m. for the purpose of holding committee meetings and conducting other Senate business until 9:00 a.m., Wednesday, November 10.